

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

December 11, 2003

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, December 11, 2003, at 12:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Ronald Marnell, Chair; Kerry Coulter (out @ 4:30, in @ 4:40), Vice-Chair; Bud Hentzen; John W. McKay Jr.; Bill Johnson (In @ 12:40); Morris K. Dunlap (In @ 1:29); Elizabeth Bishop; M.S. Mitchell; David Wells; Frank Garofalo and James Barfield. Ray Warren, Ed Sunquist and Bob Hernandez were not present. Staff members present were: Dale Miller, Current Plans Supervisor; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Scott Knebel, Senior Planner; Jamsheed Mehta, Transportation Supervisor; and Rose Simmering, Recording Secretary.

1. **Approval of MAPC meeting minutes November 6, 2003 and November 20, 2003.**

MARNELL moved, **COULTER** seconded the motion, and it carried (8-0).

2. **Receive Report from the City of Wichita regarding proposed Sign Code changes.**



INTEROFFICE MEMORANDUM

TO: Mayor and Council Members
FROM: City Manager's Office
SUBJECT: Proposed Changes to Sign Code – Workshop Item
DATE: November 25, 2003

Over the past two months, staff and sign industry representatives have been meeting to review possible additions and amendments to the Sign Code. Staff and the sign industry have concurred on the proposed changes to the Code outlined below and delineated on the attached *Proposed Sign Code Additions/Amendments*.

The committee's review of the Code has focused primarily on the following issues:

- (1) Creation of an "administrative adjustment" process that is similar to the adjustment processes outlined and permitted in the Unified Zoning Code;
- (2) Clarification of those items or code sections that have been sources for confusion or have required frequent interpretation, and some appeals to the Board of Zoning Appeals (BZA);
- (3) Addition of new definitions and sign code classifications that are referred to in the Sign Code or in approved Community Unit Plans (CUPs), Planned Unit Developments (PUDs) and/or Protective Overlays (POs), but are not otherwise defined or well-defined, as well as new definitions for sign types and technology that have been developed since the Sign Code was first adopted; and
- (4) Amendments to eliminate several specific requirements that have been frequently reviewed by the BZA but ultimately waived.

A detailed, delineated draft of proposed Sign Code changes is attached. Outlined below is a summary of the proposed changes.

1. Addition of a totally new Sign Code section for administrative adjustments, whereby the Planning Director, with concurrence of the Zoning Administrator, may approve an application for a Sign Code adjustment.

Nine specific administrative adjustments categories are outlined, including allowed sign height, size, and distance separation requirements; allowed number of wall signs; reconstruction/major structural alteration to legally non-conforming signs; and allowance of electronic message signs for institutional uses, such as churches and schools, in residential zoning districts or in any Neighborhood Office, General Office, Neighborhood Retail, Office Warehouse or Industrial Park zoning district. Specific limitations on the maximum

adjustment that can be granted with respect to sign height, size, distance separation or number of wall signs are also stipulated.

2. Addition of and revision to a number of definitions, including new sign classification definitions for "animated signs", "banner signs", "commercial flag or pennant signs", "electronic message signs", "flashing signs", "menu boards", "monument signs", and "variable message signs". There has been tremendous growth in the use of these types of signs over the past 8-10 years, and definitions that relate to specific zoning district or CUP, PUD or PO requirements are recommended in order to more practically regulate and enforce their use.
3. Inclusion of several new general definitions that are frequently referred to in the Sign Code, CUPs, PUDs or POs, or by general sign industry terminology, but are not defined in the Sign Code including: "Abutting", "Adjacent", "Institution", "Owner", "Pole or Pylon Cover or Wrap", "Sign", "Sign Cabinet", "Sign Structure", "Zoning District or District", and "Zoning Lot". Inclusion of these definitions will eliminate much current confusion, many interpretations, and potential appeals to the Board of Zoning Appeals, and should simplify permitting and enforcement processes.
4. Several suggested amendments to the "Signs Permitted in All Zoning Districts" section, including: (a) amended/clarified provisions for real estate signs, primarily as related to somewhat relaxed requirements for such signs in the "B" Multifamily zoning district, but also adding maximum number and distance separation requirements for such signs in all zoning districts; (b) amended requirements relating to the number, size and type of signs allowed for "institutional uses", regardless of the zoning district classification; and (c) new specific provisions and controls for "banner signs" and "commercial flag or pennant signs" which have been increasingly popular and used over the past 8-10 years, but for which there have been virtually no specific requirements or controls.
5. Amended provisions for building or wall signs in the "LC" zoning district, including:
 - (1) Modification of the requirements for placement of wall signs on building elevations that have no street frontage. The proposed language somewhat eases the current requirement for a minimum of 150' of paved "parking or loading area" adjacent to the wall sign by: (a) only requiring the minimum 150' distance measurement when the building or wall sign is adjacent to a residential use or district (measured from the sign face to the nearest residential use or zoning lot); and (b) allowing this 150' measurement to include not only a paved "parking or loading area", but also any "open space" area (landscaped or green space area); and
 - (2) Elimination of the current 30-foot building/wall sign height restriction. This has been a common BZA variance request for tall single-story or multi-story buildings, and a variance that has nearly always been approved.
6. Several minor clarifications and some Zoning Code-related "cleanup" language in the "General Requirements" section of the Sign Code.
7. A couple of minor clarifying amendments to the "Off-site Signs" section of the Sign Code, including: (a) addition of certain distance separation requirements for off-site (billboard) signs that are now only found in other sections of the Code; and (b) adding specific language to clarify that off-site sign panels or faces may include variable message type signs.

Attachment: *Proposed Sign Code Additions/Amendments*

TO: MAPC Members
FROM: John Schlegel, Director of Planning
SUBJECT: Proposed Changes to the Sign Code
DATE: November 26, 2003

Over the past few months city staff and representatives from various sign companies have met and have come to agreement regarding a number of amendments to the City's Sign Code. Attached are a memo from the City Manager's Office that summarizes the proposed amendments, and a delineated copy of the proposed amendments. These amendments are provided to the Commission for your review, and staff will be present to receive comments. The Commission is asked to receive the report and proposed amendments, and make any comments at the December 11, 2003 MAPC meeting.

TERRY CASSADY, Development Assistance Director with the City Managers Office We took this to the WCC on 11-25-03 for their review and comments, and we are hoping you will approve this as well. This will go back to the WCC in 2004. We had participation from several of the sign companies while we were working this project up, and we felt the input was very wide-based and very thorough. The first change is the administrative adjustment option, which is similar to that in the Zoning Code. We have crafted some language to allow that same sort of language to allow that same sort of provision in

the Sign Code. Secondly, we are trying to provide clarification of often confusing aspects of the Code. Thirdly, there is an addition of new definitions and sign classifications. Lastly, the amendments address items that typically have been waived by the Board of Zoning Appeals.

KURT SCHROEDER, Superintendent of Office of Central Inspection The Administrative Adjustment process that we have talked about basically mimics the process in the Zoning Code, and has been for 7 1/2 years. Basically that says the Planning Director, with the concurrence of the Zoning Administrator, will approve minor adjustments to Sign Code requirements. Adjustments would be granted or denied within approximately 14 days which is similar to the Zoning Code adjustment process. There are nine specific adjustment categories that have been proposed. Most of those adjustments will be handled through the Superintendent and the Planning Director. If the request is in excess of those limitations of those nine adjustments, the applicant can apply for a BZA "variance", or "amendment" process. There are nine new sign classifications written into the proposed Sign Code, and seven existing sign classifications that are clarified with additional language. There are 10 new general definitions added. We think these changes will reduce the confusion, and we think it will reduce the number of Board of Zoning Appeals Interpretations or the number of requested variances. There are a few typos and corrections, which we will be cleaning up soon. One of those is found on page 10, which is MF-29 zoning.

BISHOP Section (c), (d), several places there.

SCHROEDER And what that in effect does, is allow on these large apartment complex lots maybe more than one of those types of signs per frontage. The size doesn't really increase but you might have two.

HENTZEN Does Sedgwick County have a Sign Code?

CASSADY This Code is just for the City. The County is getting ready to do their own Sign Code now.

MITCHELL So the underlined portions are new?

CASSADY Yes.

MITCHELL Page 23 (f) says no off-site sign shall be located closer than six hundred sixty feet to the established bank lines of the big Arkansas or the Little Arkansas, or to any park of recreation area under the jurisdiction of any public body, including the Board of Park Commissioners of the city.

SCHROEDER I think we use our geographic information system that identifies the banks of the river, and do our measurements that way.

MITCHELL I am worried about the language there. There is a State Law under which the County can maintain and keep the rivers clear of all debris for flood purposes. Those established bank lines are by survey; they are not close to where the existing banks of the rivers are in most cases. They are sitting back away from the river. It might be hard to find the established bank line, and if you just use the term "bank" that would be better for someone to locate.

SCHROEDER That is a good point.

BISHOP I understand the time line for this, but what about public input? Will this go to DAB meetings?

CASSADY The WCC will have a public input hearing at that time in January or whenever we are able to get that on their agenda. There are no plans for this to go to the DAB.

GAROFALO We are not required to have a public hearing are we?

CASSADY No, this is just a courtesy visit to the MAPC. The WCC wanted this to be reviewed by your Board.

GAROFALO The 30-foot requirement that has been eliminated, is that, in effect, any element at any height?

SCHROEDER On a building wall, so if it happens to be four stories you can put it up at the top.

GAROFALO What about like out at Best Buy. We had that come up, and they were illegal, and then we approved it.

SCHROEDER Right. If they had a wall near 40 foot tall in the front, they could put the sign up near 40 foot tall, and this could be approved automatically now.

WELLS Where the sign protrudes above the top of the roof, how is that dealt with?

SCHROEDER It is really not allowed to do that unless there is a parapet wall or something up there. It can go up to the top of the parapet. On a new building it generally wouldn't exceed whatever that roof height is. I mentioned there was quite a bit of change to the definition of building sign. Wall sign, as you look at that, a lot of places have pitched roofs, and there was some question about how you do that. We basically copied the Zoning Code in terms of average height, so the top of the sign couldn't go above the average height of a pitched roof.

GAROFALO When this comes up to the WCC, will they ask if anybody is interested for comment at that time?

CASSADY We are talking about changes to an ordinance, and that will require the public hearing process.

MARNELL In the "LC" District where this is applying to, probably the most common change is the one on the buildings where the signs are identifying the buildings are taller or above 30 feet. In those two cases that we were being asked about, they both came before us from the Tallgrass Center at 21st and Rock, and in both of those cases the sign is made as part of the building, but the sign itself exceeded the limits.

SCHROEDER If the sign is going above that parapet wall line, this still wouldn't address that. They might come to you still for that. If the wall was 42-foot, and they put it at 42-foot, you wouldn't ever see those cases.

MARNELL My assumption is those are pretty rare.

SCHROEDER Unless there is a requirement in the C.U.P. that says specifically in this C.U.P. no wall signs higher than 30 foot, then you would see it.

BISHOP I would encourage you and the WCC to take a summary to the DAB. I would like to ask about the one correction on page 10, the "MF-29" does that mean duplex?

SCHROEDER It is 29 units per acre. On Section V, that section you were looking at, the first "B" would not change. Then in "C" & "D" the "B" would be changed to "MF-29".

BISHOP There are a few areas that are not zoned the way the actual use is there in the area. They might be zoned "B" but have single-family uses in that area.

SCHROEDER I don't think this change will really affect that kind of condition. What it does is allow in the "B" district, where you have the big apartment complexes on a big parcel, they could have maybe two or three signs on a frontage, as long as they are 150 feet apart instead of just one. So in a residentially developed single-family district, the lots don't allow that much space.

GAROFALO This eliminates any of these sign changes in C.U.P.'s coming to us?

SCHROEDER No. But most of the C.U.P.'s have specific sign requirements, and you would see them in C.U.P. amendments. A lot of them just refer to "as per Sign Code" so then we go to the Code and see what it says, so those you might not see anymore.

MCKAY We will still probably get them because most of them are probably going to want more than what the Sign Code allows to begin with in a C.U.P.

GAROFALO Under the adjustment; they can be made by the Planning Director, can it can be done administratively?

SCHROEDER Yes, but as an example, if you have a CUP that says no sign will be 12-foot tall, and someone wanted 25-feet, we will adjust it or it will come to you as an amendment to the C.U.P.

3. Approve 2004-2008 Transportation Improvement Program (TIP), presented by Jamsheed Mehta

There will be a public hearing of the MPO on December 11, 2003 to consider the adoption of the Transportation Improvement Program (TIP). Planning staff will present an overview of the TIP process and propose a list transportation projects for adoption into the TIP. Following the public hearing, the MPO may adopt the TIP.

The TIP is a listing of all regionally significant transportation projects, including federally funded projects, within the Wichita Metropolitan Planning Area. The Wichita-Sedgwick County Metropolitan Area Planning Commission is the designated Metropolitan Planning Organization (MPO) for the area and has the responsibility for programming all federally funded projects within the planning area.

Staff has previously provided a copy of the proposed TIP projects for discussion at the meeting on November 20, 2003. The attached document now includes transportation projects from the City of Wichita's proposed Capital Improvement Program (CIP) including transit and airport projects, and from Sedgwick County's adopted CIP. Highway projects sponsored by KDOT and paratransit projects as chosen by KDOT are also included, and a new category called Small City Projects has been added to separately list those cities' requests for federal funds. This document covers years 2004 through 2008 and costs approximately \$808 Million.

The Wichita City Council is scheduled to adopt the proposed CIP 2004-2013 on December 16, 2003. Therefore, City of Wichita's complete list of streets/bridges, transit and airport projects is included in the MPO's TIP but is subject to City Council approval. If City council makes any changes to the proposed CIP, then the MPO may amend the TIP at a later time.

In addition to adopting all regionally significant projects, the MPO has specific authority to program transportation projects within the planning area that use certain federal funds. The annual average obligation authority for these funds is:

Surface Transportation Program (STP)	\$ 6.1 million per year
Congestion Mitigation & Air Quality (CMAQ)	\$ 2.5 million
Bridge Program	\$ 1.7 million

For this TIP update, MAPD staff solicited project requests from KDOT and all local governing bodies in the planning area, and hosted a workshop on the TIP process for them on October 16, 2003. 66 eligible projects have been submitted for the MPO's consideration, including nine projects from small cities.

The Technical Advisory Committee reviewed the TIP on November 17, 2003, and recommends MPO approval. The MPO reviewed the draft TIP on November 20, 2003, and the MPO's public hearing to adopt the TIP on December 11, 2003 has been advertised with review copies available at MAPD and posted on the web site.

Recommendation: Hold a public hearing, adopt the TIP 2004-2008, and authorize the Chairman to sign on behalf of the MPO.

JAMSHEED MEHTA Planning staff. TIP public hearing portion.

MITCHELL On page 19, Project R21, if I read correctly there is a figure on Engineering Services that is for the year 2006, but I don't find it in 2006 attachments.

MEHTA Apparently we have two projects listed, the Engineering is already done. If approved and there are a lot of "if's" I don't believe the 2 million dollars is for Engineering it should be for construction.

BISHOP I noted on your list that you are recommending that we drop a reconstruction from Hillside to Oliver why is that being dropped is that being eliminated entirely?

MEHTA We are mirroring the C.I.P. but perhaps Steve Lackey can address it better.

STEVE LACKEY When we were building the C.I.P. we had to eliminate some projects to be able to stay within our budgets. 13th & Hillside to Oliver has a real constrained right-of-way and in order to widen it out we would have to buy a lot of property and we didn't have the budget and we dropped them completely out of the programs. Central from Hillside to Oliver, which is wooded on both sides and we just haven't had a lot of luck eliminating a lot of forestry.

GAROFALO The projects you have here which are in the City of Wichita are from the C.I.P.?

MEHTA Correct the first 5 years only out of the 10-year CIP.

GAROFALO Page 44, the Small City section I did not see anything like on the Woodlawn project like Bel Aire and then you go further back.

MEHTA Yes, the pages 44, 45 are for the first three years, 2004-2006. So there will be another section where you have the Small Cities for the years 2007-2008 and there you will find Bel Aire's Woodlawn project in 2007.

BISHOP In regard to that, on page 81, it indicates it is mainly for construction in other words is there any point at which the Engineering right-of-way is programmed in?

MEHTA It maybe, but in this T.I.P. it only recognized the construction year. As we get a little bit closer in on these projects we will have a better feel for about how much they are spending on the Engineering and right-of-way, but when we got this information we were only focusing on the construction year. KODT and Federal Highway do not participate in right-of-way or Engineering design so it wasn't important at this stage to identify what the Small Cities' process is going to be.

MOTION: To adopt the TIP 2004-2008, and authorize the Chairman to sign on behalf of the MPO.

GAROFALO moved, **MCKAY** seconded the motion, and it carried (9-0).

4. Review of proposed City Capital Improvements Program amendments for 2004-2013, for consistency with Comprehensive Plan.

Jay Newton provided an overview of the 2004-13 Capital Improvements Program (CIP).

DUNLAP Today we are to determine if this is in conformance with the Comprehensive Plan and not to argue with you about how you are spending your money but I have a couple of questions. On the Manager's introductory letter, it says,

"Following completion of the projects underway, diminished growth in the local sales tax is likely to slow the pace of additional project construction." I cannot conceive of a local sales tax diminishing. What is that statement in there?

NEWTON Traditionally we have received more each year than in the previous year from local sales tax collections and for two years as the State of Kansas was changing over some of their revenue measuring, collecting, and distribution systems we actually experienced a net decline.

DUNLAP But this relates specifically to that one-half cents sales tax for us that we are paying for roads and bridges now how can that decline?

NEWTON That is what we have been asking the State.

DUNLAP So it is what the State has done to us. We are not selling less in Wichita. This one-half cent sales tax was for the Kellogg flyover now it has just continued forever. It seems to me like we did a lot of General Obligation (GO) funding of these projects and that seems to have gone away now and we are now only relying on the one-half cent sales tax and if that is the case have we in fact changed our method there and used the (GO) money for something else and are only relying or more heavily relying on the one-half cent sales tax because before that was here everything was (GO). So what is the story here you say we are running out of money but we are running out of money because we are spending this one-half sales tax and we are not using (GO) money anymore.

NEWTON On the freeway projects since that referendum passed we have spent primarily local sales tax.

DUNLAP Lets take that GO money that we were spending let's say on a arterial that is not a freeway today are we spending GO money or tax money on that arterial?

NEWTON Today we have some of the local sales tax money going to the arterial program.

DUNLAP That is what I thought we have rated the freeway program that we thought we were voting for to use for other programs and we are spending (GO) money somewhere else.

GAROFALO Where does the Pawnee Bridge project stand?

NEWTON I believe we are in design and would like to begin construction in 2005.

LACKEY The design is probably 60% complete and we acquired some properties and we stopped the project until the CIP gets approved. We still have some properties to buy. I think the earliest is in two years.

GAROFALO So the work from Washington on east will proceed before that?

LACKEY Yes, we have projects west of Washington all the way over to Hydraulic and passed that are in the program and funded.

GAROFALO So the Washington to Hydraulic on Pawnee is scheduled for next year?

LACKEY We want to coordinate them so we do them together probably the next year and the following year.

BISHOP The previous arterials that you discussed because of acquiring right-of-way or forestry issues it appears that you are just walking away from them. I would like to suggest that there might be ways to go around it. There are improvements that need made such as drainage issues.

MITCHELL What is the difference between the loose sheets of the revised presentation and the booklet?

NEWTON They are revised pages to the C.I.P. up to this point.

MITCHELL When has WCC reviewed this?

NEWTON We have had workshops for discussion.

MITCHELL They have not been doing it annually?

NEWTON Yes, the last document was two years ago.

MITCHELL The MAPC is being asked to rule whether or not this CIP which is changing daily is in compliance with the Comprehensive Plan and I don't know how we can be expected to make a good decision on that with no more information or time to make a decision or recommendation to the WCC.

NEWTON I don't understand what you are asking. Does the WCC need to take formal action?

MITCHELL I think we need to be given more time to review what is being presented by the staff prior to making the recommendation to the WCC.

MOTION: To approve and it is in compliance with the Comprehensive Plan.

HENTZEN moved, **DUNLAP** seconded the motion, and it carried (10-0).

5-1. SUB2003-133 – One-Step Final Plat – ASHLEY TOWNE CENTRE ADDITION, located on the south side of Maple, west of Ridge Road.

NOTE: This is a replat of Ridge Plaza 5th Addition in addition to unplatted property. A zone change from SF-5, Single-Family Residential, B, Multi-Family and GO, General Office to LC, Limited Commercial has been approved for the site subject to platting. The Ashley Park Towne Centre Community Unit Plan (CUP 2003-56, DP-270) was also approved for this site. The plat denotes the vacation of Holland Lane.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being scheduled for City Council, the zone change will need to be approved.
- B. Municipal services are available to serve the site.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- E. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **In accordance with the CUP, Traffic Engineering has requested petitions for left and right-turn lanes along Maple, traffic signalization at Maple Street across from Ashley Park and left turn lanes at the west entrance to Lot 2. Construction of a medial for the Ashley Park entrance may also be required upon the determination of the Traffic Engineer. In the event the traffic improvements are constructed as a private project, a financial guarantee shall be provided in lieu of a petition.**
- F. Two access openings are proposed along Maple as denoted on the CUP. The plat shall denote access controls. Distances should be shown for all segments of access control. The final plat shall reference the dedication of access controls in the plat's text stating that "All abutters rights of access to or from Maple Street over and across the north line of the Ashley Towne Centre Addition are hereby granted to the City of Wichita, provided however, that Lots 1 and 2, shall each have one opening, as indicated on the face of the plat."
- G. In accordance with the CUP, a cross-lot circulation agreement is needed to assure internal vehicular movement between the lots.
- H. Since this is a replat of the Ridge Plaza 5th Addition, Title Notes #4, 5 and 6 may be deleted.
- I. A note shall be placed on the final plat, indicating that this Addition is subject to the conditions of the Ashley Park Towne Centre Community Unit Plan (CUP 2003-56, DP-270).
- J. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP and its special conditions for development on this property.
- L. The MAPC signature block needs to reference "John L. Schlegel, Secretary" and "Ronald L. Marnell, Chair".
- M. Since this is a replat, the following language should be added to the plat's text, "Easements and other public reservations are hereby vacated to conform to those shown on the plat by virtue of KSA 12-512(b) amended. "
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- P. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire

protection shall be as per the direction and approval of the Chief of the Fire Department.)

- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- W. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **SBC has requested additional easements.**
- X. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

NEIL STRAHL, Planning staff. This is the Ashley Towne Center Addition. This plat is located on the south side of Maple, west of Ridge Road. The C.U.P. was approved with a guarantee for left and right turn lanes along Maple, and traffic signalization at Maple across from Ashley Park, which is right here on the map. Subsequent to the MAPC meeting, the Traffic Engineer and the applicant have agreed on a guarantee for potential improvements to the nearby residential streets that may be impacted by this development. So we are recommending that MAPC approve the plat as was recommended by the Subdivision Committee last week, subject to a revised Item E and that new item would read as follows: In accordance with the C.U.P., Traffic Engineering has requested a guarantee for left and right turn lanes along Maple and traffic signalization at Maple across from Ashley Park. The applicant shall also submit a financial guarantee in the amount of \$15,000 dollars which represents the total amount required by the development for associated street improvements contingent upon determination of the Traffic Engineer, that such improvements are required as a result of the Ashley Park Towne Center development within three years from the date of the Target building occupancy and construction commenced by City Public Works within five years.

GAROFALO Does that eliminate Item E the way it is here?

STRAHL Yes that would replace the existing Item E.

MOTION: To approve Item 5-1 subject to the following revised Item E: In accordance with the C.U.P., Traffic Engineering has requested a guarantee for left and right turn lanes along Maple and traffic signalization at Maple across from Ashley Park. The applicant shall also submit a financial guarantee in the amount of \$15,000 dollars which represents the total amount required by the development for associated street improvements contingent upon determination of the Traffic Engineer, that such improvements are required as a result of the Ashley Park Towne Center development within three years from the date of the Target building occupancy and construction commenced by City Public Works within five years.

GAROFALO moved, **DUNLAP** seconded the motion, and it carried (10-0).

5-2. SUB2003-134– One-Step Final Plat – CLARK ELEMENTARY ADDITION, located south of Kellogg, east of Woodlawn.

NOTE: This is a replat of a portion of the "Replat of Part of Eastridge Addition".

STAFF COMMENTS:

- A. Municipal services appear to be available to serve the site. **A 10-ft utility easement is needed along the**

southeast property line. A 20-ft utility easement is needed to cover the sewer line extending from Cottonwood Lane.

- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- E. The signature line for the City Clerk needs to be revised to reference "Karen Schofield".
- F. The MAPC signature block needs to reference "Ronald L. Marnell, Chair".
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **GAROFALO** seconded the motion, and it carried (10-0).

5-3. **SUB2003-137– One-Step Final Plat – HIDDEN CREEK LLC ADDITION, located on the east side of Hillside and on the south side of 109th Street North.**

NOTE: This unplatted site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval.
- B. The site is currently located within the Sedgwick County Rural Water District No. 2. If service is available, feasible and the property is eligible for service, **County Code Enforcement** recommends connection.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A flood study and drainage plan is needed. Floodway reserves are needed.**
- E. Recording data for the off-site access easement shall be denoted. A copy of the easement shall be provided to MAPD.
- F. The platlor's text shall denote the ownership and maintenance responsibilities of the floodway reserves.
- G. In accordance with Access Management Regulations for County plats, complete access control is required for arterials intersecting with local streets. Complete access control of 75 feet is needed along Hidden Creek Ct from 109th St. North.
- H. **County Engineering** needs to comment on the access controls. The plat denotes two joint openings along Hillside. **County Engineering has approved the access controls. Dimensions of the access openings are needed. The appropriate arrows need to be included for the complete access control platted along 109th St. North. The platlor's text shall be corrected to reference "Lots 1-4" having access at two locations to Hillside.**
- I. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).
- J. In accordance with the Subdivision regulations for suburban subdivisions, the turnaround needs to be increased to a 75-ft property line radius.
- K. The Access Management Regulations requires a 60-ft half-street right-of-way width along rural arterials. The Regulations also requires an additional 25-ft x 25-ft corner clip at the intersection.
- L. The applicant shall guarantee the installation of the cul-de-sac to the 36-ft rock suburban street standard.
- M. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- N. The Applicant is advised that if platted, the building setbacks along Hidden Creek Ct must be 30 feet to conform with the Zoning setback standard for the RR, Rural Residential District.
- O. Lot 10 does not conform with the 200-ft lot width standard, which is measured at the building setback line. An increase in the distance of the building setback from the road would meet the standard.
- P. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 9. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- Q. **GIS** needs to comment on the plat's street names. Hidden Creek Ct needs revised to "Hidden Creek".
- R. The Applicant should consider submitting the final plat with a revised name, as an Addition now within Wichita exists with the name "Hidden Creek Addition".
- S. For lots fronting on cul-de-sacs, the lot frontage is required to be 50% of the required lot width (200 feet). Lot 10 does not meet this 100-ft frontage requirement.

- T. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- U. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- V. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- CC. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. **Westar Energy and SBC requests additional easements. Subdivision Committee also requested urban scale utility easements.**
- DD. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **GAROFALO** seconded the motion, and it carried (10-0).

5-4. SUB2003-135- One-Step Final Plat – WESTAR ADDITION, located south of 53^d Street North and on the east side of Tyler Road.

NOTE: This unplatted site is located in the County within three miles of Wichita's city limits. It is in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a conditional use (CON 2003-31) for a major utility to permit an electrical substation. It is located in the Maize Area of Influence. No sewer or water facilities will be needed.

STAFF COMMENTS:

- A. **County Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- B. **County Engineering** needs to comment on the access controls. The plat denotes one opening along Tyler. The site plan denotes this opening to be 123 feet from the south property line. **The access controls are approved.**
- C. The final plat tracing shall reference the dedication of access controls in the plat's text to the "appropriate governing body".
- D. Per Sedgwick County Fire Department, access drives to any structure in excess of 150 feet from the edge of the roadway will need to be installed prior to final framing inspection, preferably before the start of any above grade

construction work. Such drive to be installed according to fire department specifications: (1) Twenty feet of drivable surface is provided the entire length of the access drive designed to withstand the weight of fire apparatus in inclement weather with provisions for turning fire apparatus around. (2) To meet fire department specifications, the surface will need to be an all-weather material consisting of rock or gravel, ground asphalt, laid asphalt or concrete. It is to be applied a minimum of 4 inches in depth consistently over the entire width and length of the driving surface (gravel is prone to problems during extended periods of rain or snow and should be used with caution unless a good solid compacted base has been installed).

- E. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- F. The owners noted in the platting binder need to be signatories to the plat, or a revision to the binder showing that the site's ownership is in the party now shown on the final plat.
- G. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **GAROFALO** seconded the motion, and it carried (10-0).

5-5. **SUB 2003-128: One-Step Final Plat -- CRESTVIEW COUNTRY CLUB ESTATES, OVERBROOK FIFTH ADDITION.**

NOTE: This is unplatted property located within the City of Wichita. This revised plat has reduced the number of lots from 6 to 3. The Applicant proposes a zone change from LI, Limited Industrial to SF-5, Single-Family

Residential. The site is located within the 100-year floodplain.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being scheduled for City Council, the associated zone change will need to be approved.
- B. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. Fees in lieu of assessment regarding water connections are required.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan.
- E. The plat's text needs to be corrected with reference to Lots 4, 5 & 6 and Reserve A.
- F. A site benchmark is needed.
- G. The regulatory floodway line should be determined.
- H. Minimum building pad required elevations and Bench Mark elevations shall also be referenced in Mean Sea Level.
- I. Since the subdivision is partially in a FEMA -regulated floodplain, the floodway certificate needs added.
- J. **Traffic Engineering** needs to comment on the access controls. The plat proposes three access openings along 29th St. North. **A joint access opening is needed between Lots 2 and 3. An opening for Lot 1 shall be 400 feet west of the joint opening.**
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- M. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with Specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- N. The Applicant has platted a 20-ft building setback, which represents an adjustment of the Zoning Code standard of 25 feet for the SF-5, Single-Family District. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- O. Approval of this plat will require a waiver of the lot depth to width ratio of the Subdivision Regulations for Lot 1, Block A.
- P. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- Q. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- R. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- S. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- T. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind

erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- U. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- V. Perimeter closure computations shall be submitted with the final plat tracing.
- W. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- X. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Y. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **WELLS** seconded the motion, and it carried (10-0).

5-6. DED2003-27 – Dedication of a Utility Easement, for property located between Arcadia and Byron, on the north side of Douglas Avenue.

OWNER/APPLICANT: Matt Eck, LLC, 9915 W. 21st Street North, Ste. A, Wichita, KS 67205

AGENT/SURVEYOR: Bob Previtera, Air Capitol Land Surveyors, 2160 W. 21st Street No., Wichita, KS 67202

LEGAL DESCRIPTION: A 15-foot utility easement described as follows:
The north 15 feet of the south 154 feet of the west 35.75 feet of the east 242.50 feet, except the north 5 feet of the east 5 feet of Lot 28, Westfield Acres Addition, Wichita Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a Lot Split (Case No. SUB 2003-117) and is being dedicated for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **GAROFALO** seconded the motion, and it carried (10-0).

5-7. DED2003-28 – Dedication of a Utility Easement, for property located south of Central, west of West Street.

OWNER/APPLICANT: Marjorie Jernigan, 259 N. Florence, Wichita, KS 67212

AGENT/SURVEYOR: Greg Tennant, 8922 Meadowpark Ct., Wichita, KS 67205 (Agent);
Don Armstrong, Armstrong Land Survey, P.A., 1601 E. Harry, Wichita KS
KS 67211 (Surveyor)

LEGAL DESCRIPTION: A five-foot utility easement described as follows:
The west 5 feet of the east 146 feet of Lot 1, Park Wilde Addition to Wichita Sedgwick County, Kansas.

PURPOSE OF DEDICATION: This Dedication is a requirement of a Lot Split (Case No. SUB 2003-89) and is being dedicated for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **GAROFALO** seconded the motion, and it carried (10-0).

6-1. **VAC2003-56 – Request to Vacate a 20-Foot Utility Easement, located southeast of Tyler Road and 29th Street North.**

OWNER/APPLICANT: Robert & Margaret Thimmesch

AGENT: Baughman Company, PA c/o Russ Ewy

LEGAL DESCRIPTION: The platted 20-foot utility easement that runs parallel to the south property line of Lot 8, Block B, Fossil Rim Estates Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located southeast of the Tyler Road – 29th Street North intersection, more specifically southeast of the Meadow Park – Pepper Ridge intersection, 2817 North Pepper Ridge

REASON FOR REQUEST: Additional square footage for development

CURRENT ZONING: Subject property and all adjoining properties are zoned “SF-5” Single Family Residential.

The applicant is requesting consideration for the vacation of a platted 20-foot utility easement, which runs parallel to the south property line of Lot 8, Block B, Fossil Rim Estates Addition. All of the platted 20-foot easement is on Lot 8. There are no sewer or water in the platted easement. The Fossil Rim Estates Addition was recorded with the Register of Deeds May 31, 2002.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted utility easement as described in the legal description and the plat with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time November 20, 2003 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described platted easement and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the platted easement described in the petition should be approved with conditions:

1. Vacate the 20-foot platted easement which runs parallel to the south property line of Lot 8, Block B, Fossil Rim Estates Addition, stopping at its point of intersection with the platted 20-foot drainage and utility easement that's runs parallel to the west property line of Lot 8, Block B, Fossil Rim Estates Addition.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
3. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the 20-foot platted easement which runs parallel to the south property line of Lot 8, Block B, Fossil Rim Estates Addition, stopping at its point of intersection with the platted 20-foot drainage and utility easement that's runs parallel to the west property line of Lot 8, Block B, Fossil Rim Estates Addition.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

(3) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

COULTER moved, **GAROFALO** seconded the motion, and it carried (10-0).

6-2. VAC2003-57 – Request to Vacate Nine (9) Utility Easements and One (1) Drainage Easement, located southwest of the Pawnee and Maize Road intersection.

OWNER/APPLICANT: Maize Road LLC

AGENT: Baughman Company, PA c/o Phil Meyer

LEGAL DESCRIPTION: See attachment

LOCATION: Generally located southwest of the Maize Road – Pawnee Avenue intersection, multiple lots along Atlanta Circle, Westgate Street and Westgate Court

REASON FOR REQUEST: Lot shifts have given new configuration to lots.

CURRENT ZONING: Subject property and all adjoining properties are zoned “SF-5” Single Family Residential.

The applicant is requesting consideration for the vacation of multiple platted easements located in the Southern Ridge Addition. Lot shifts will reconfigure these lots. The applicant has dedicated new easement to cover the Westar equipment that was in the easements. There are no sewer or water in the platted easement. The Southern Ridge Addition was recorded with the Register of Deeds January 15, 2003.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the multiple platted utility easements as described in the legal description and the plat with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time November 20, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above described multiple platted easements and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the multiple platted easements described in the petition should be approved with conditions:
1. Vacate only those easements as described in the legal description and provide Staff with a copy of the dedicated easements recorded with the Register of Deeds.
 2. (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 3. All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only those easements as described in the legal description and provide Staff with a copy of the dedicated easements recorded with the Register of Deeds.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

COULTER moved, **GAROFALO** seconded the motion, and it carried (10-0).

6-3. VAC2003-58 – Request to Vacate Utility Easements, located northeast of the Pawnee and Edwards Avenue intersection.

OWNER/APPLICANT: Nance Properties, LLC

AGENT: Terra Tech Land Surveying c/o Michale Webster

LEGAL DESCRIPTION: The south 25-feet of the west 235-feet of Lot 2, Southwest Industrial Addition, Wichita, Sedgwick County, Kansas and the east 15-feet of the west 235-feet of Lots 1 & 2, Block 2, Southwest Industrial Addition, Wichita, Sedgwick County, Kansas, as recorded on film 2207, page 0080, with the Register of Deeds.

LOCATION: Generally located southeast of the Edwards – Lydia Intersection, which is north of Pawnee Avenue and west of Meridian.

REASON FOR REQUEST: Remove Public Utility Easement, replaced by Private Water Line Easement.

CURRENT ZONING: Subject property and all adjoining properties are zoned "LI" Limited Industrial.

The applicant is requesting consideration for the vacation of easements dedicated by separate instrument, film 2207, page 0080, with the Register of Deeds. There is no sewer in the easement. There is a private water line in the easement. The applicant has dedicated a private water line easement to cover the water line, per a condition of a Lot Split of Lots 1 & 2, Block 2, Southwest Industrial Addition. The Southwest Industrial Addition was recorded with the Register of Deeds August 8, 1953.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, utility representatives and other interested parties, Planning Staff recommends approval to vacate the utility easement as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time November 20, 2003 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the easement dedicated by separate instrument described in the petition should be approved with conditions;
- (1) Vacate the easement dedicated by separate instrument as described in the legal description.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (3) All improvements shall be according to City Standards.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the easement dedicated by separate instrument as described in the legal description.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to City Standards.

MOTION: To approve, subject to staff comments and citing the findings in their report.

COULTER moved, **GAROFALO** seconded the motion, and it carried (10-0).

7. **Case No.: ZON2003-45** - Fredrick L. & Dianna L. Simmon (applicant); Baughman Company P. A. (Russ Ewy) Request Sedgwick County Zone change from "RR" Rural Residential to "SF-20" Single-family Residential on property described as;

The SW 1/4, SW 1/4, Sec. 35, Township 26 South, Range 2 West EXCEPT beginning 351.56 feet East of the SW Corner, thence North 364.16 feet, thence Northeast a distance of 353.43 feet, thence in a Northeasterly direction a distance of 190 feet plus or minus, thence South a distance of 478.22 feet to the South Line thence West a distance of 529.72 feet to the point of beginning EXCEPT for roads of right-of-way. Generally located At the northeast corner of 29th Street North and east of 151st Street West.

November 5, 2003 Board of County Commissioner returned to MAPC

BACKGROUND: The applicant is seeking "SF-20" Single-family Residential zoning on 33.06 acres located northeast of 29th Street North and 151 Street West. The property is currently used for cropland, and is an upside down "U" shape with a single-family residence located on the left out tract. Both 29th and 151st Streets are sand and gravel roads. It is one mile to the closest paved roads, 21st Street and 135th Street.

Surrounding property is used primarily for farm ground. There are five homes located within 1/4 mile of the application area. Within a 1/2 mile there are 22 lots of approximately 5-acres in size (Reece Farms Addition). Lot sizes in the area vary from 20 acres and larger, down to 2 acres or so. Water and wastewater services would have to be provided on-site.

CASE HISTORY: This property was zoned "RR" with the adoption of 1985 countywide zoning resolution. The applicant has filed a plat for this property that shows 26 lots that are approximately one acre in size.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential; farm ground
SOUTH: "RR" Rural Residential; residences, farm ground
EAST: "RR" Rural Residential; farm ground
WEST: "RR" Rural Residential; residences, farm ground

PUBLIC SERVICES: 151st Street and 29th Street are sand and gravel roads. Public sewer and water services are not available at this location.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" map depicts this site as appropriate for low-density residential usage, which is defined as 1-6 units per acre. The density of the proposed project is 1.2 dwelling units per acre. The map also indicates this site is located within the proposed northwest bypass corridor, and is also located within the 2030 Urban Service Area for City of Wichita utilities.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to platting within 1-year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All nearby property is zoned "RR" Rural Residential, and is used for agricultural or large-lot residential uses. The character of this area is predominately rural, but will probably experience increasing development pressures.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "RR" Rural Residential that primarily permits large lot residential uses with a minimum lot size of two acres. The site could be developed as currently zoned. If developed as currently zoned, the site would yield a fewer number of lots.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: "SF-20" Single-family Residential zoning and "RR" Rural Residential are very similar districts whose primary difference is minimum lot size. "SF-20" permits lot sizes of 20,000 square feet and larger, whereas the "RR" district has a minimum lot size of 2 acres. If approved, the increased density should not detrimentally affect nearby residents. There may be a concern by existing neighbors if the request is approved, there could be twice as many individual water wells on the application area than if it remains zoned as it is today. If this request is approved, the applicant can be required as part of platting to demonstrate that sufficient water quantity is available to serve the proposed development, and potentially evaluate the impact on nearby properties.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "Wichita Land Use Guide" map depicts this site as appropriate for low-density residential usage, which is defined as 1-6 units per acre. The density of the proposed project is 1.2 dwelling units per acre. The map also indicates this site is located within the proposed northwest bypass corridor, and is also located within the 2030 Urban Service Area for City of Wichita utilities. No specific route for the bypass has been determined to-date for the proposed roadway.
6. Impact of the proposed development on community facilities: If the request is approved, there will be an increase in all publicly provided services generally provided to a residential development since the ground is vacant today. Traffic generated by the developed lots will result in a need for higher road maintenance on the adjoining sand and gravel roads.

JOHN SCHLEGEL, Planning Director. This item is back before you today. It was referred back to the MAPC by the Board Of County Commissioners (BOCC) after being heard on November 5, 2003. At that time, staff presented to them your recommendation for approval, but they had many questions about the proposal, and asked me to bring this item back to you with the following questions:

1. Who should pay for paved access on 29th or 151st Streets from the proposed subdivision to the nearest paved road?
2. Can the applicant provide evidence that there is sufficient groundwater of acceptable quality to serve the proposed homes from on-site well?
3. What are the impacts of the proposed project on existing drainage patterns? In particular, on the existing farm terrace system, and on other neighboring properties?
4. What is the difference economically between the current zoning and that proposed?

I would recommend that you refer this back to the applicant, to have the applicant respond and answer these questions at the next MAPC meeting.

DUNLAP Have we only been given the four questions from the BOCC or the entire application?

SCHLEGEL The Item has been referred back to you by the BOCC.

DUNLAP So it is not setting over there waiting on the answer to these four questions. We are going to vote on it again at some point?

SCHLEGEL Exactly, and at that point it will go back to BOCC. At that time they will be expecting responses to these questions.

HENTZEN I have studied this quite a bit. I wonder; they have a wonderful staff at the County, but so do we on the MAPC. We can't go out and answer these questions. All I am thinking about is why didn't they find the answers to those questions if they had them?

SCHLEGEL That is why I am recommending to you that you ask the applicant to develop responses to these questions, and report back to you at your next meeting with those responses. Then you will be able to gauge whether or not those responses are suitable ones that you as a Board want to make to the BOCC.

BISHOP I would like to point out that I have read through the material as well, and we have had a practice of looking at the Comprehensive Plan, and letting a number of other items wait until platting, and just say it will be addressed at platting. The message that I got from discussion by the BOCC is that there is a need to address some of these issues and details up front, at the time of zoning.

DUNLAP Is this a public hearing for this?

SCHLEGEL No, but if the applicant is present, you may want to hear from the applicant.

PHIL MEYER, BAUGHMAN COMPANY This has been referred back from the BOCC, and we have been waiting a long time to get MAPC. I was at the BOCC, and to me there is really one issue at stake. There is one major issue that has the BOCC held up on approving this, and sending it back to MAPC. One reason is to have some more time to resolve the road paving issue, and two is to get MAPC input. The road paving issue is the main reason that this plat was deferred from the zone change, and sent back to Planning Commission for more discussion.

Pretty much anybody that leaves this subdivision, whether they go to 151st or to 29th are probably going to come back to that intersection, and go south to 21st Street which is the closest paved arterial road. The traffic impact that occurs on 29th Street is minimal when you do a subdivision like this. Who should be responsible for paving 151st Street? Now the County has been working on this paving policy for quite a while. If there is a problem, it is that the individual alternative sewer got approved prior to the County actually establishing a policy on what the paving requirements are on a subdivision like this. They are in that process. They don't know who is responsible. To me, it is a platting issues. The County needs to decide. It is not a zoning issue. It would be inappropriate to do the two-acre lots in this Subdivision.

Question number 2 on this lists; there is quality water there, and we have met the code requirements today, and that question needs to go to Code Enforcement. But we have met the requirements.

Question number 3, that was addressed in the drainage plan approved with the final plat. Planning Commission has approved that plat, and I talked to Jim Weber, the Assistant County Engineer after the BOCC hearing, and he e-mailed one of the County Commissioners who had that question, and informed them that the terraces were addressed in the drainage plan. That is an issue that has already been worked out with County Engineering and the applicant.

Question number 4, we have 26 one acre lots, and we can go back and do two-acre lots and not have a zone change, and we can proceed on and have 13 lots.

Again, I would like to discuss that. It will be a planning mistake to force this person to go back and do two-acre lots. I think the BOCC will be happy once we come up with what the road policy is. Then this issue of the quantity of the lots will go away. It is just the impact on the road on this, and they want to discuss it in a broader sense on any of these one-acre lot subdivisions; how will those impact sand and gravel roads?

MITCHELL If the community sewer system policy was in effect today, would you have platted smaller lots, and put this parcel of land on a community system rather than the individual system?

MEYER I am not sure I can answer that. I have not discussed that with the applicant in this situation.

BISHOP Is the Final Plat pending?

MEYER I have a Final Plat that has been approved by the MAPC.

BISHOP But it can't be filed until the zone change is finished?

MEYER Correct, the plat cannot proceed on to the County Commission until the zoning has been approved by the BOCC.

BISHOP With that plat did the applicant provide for a petition for future water and sewer service for the residences in that area?

MEYER No, the way that the MAPC approved it was we supplied petitions for sewer and water mains across our frontage for the distance along 29th Street, and a no protest agreement for interior sewer. You would have to go to WCC to see what their comments are on that.

GAROFALO It appears to me you responded to questions 2, 3, 4, and a little on question 1, but you think that question 1 should be done in the platting process?

MEYER No, that is a policy that the County needs to make a decision on their policy, and the problem is that we have a plat ahead of that policy being established. My point is that if that policy was done, or done prior to us getting back to getting back to BOCC, we probably wouldn't have a discussion on zoning. But the bottom line is that we don't have that policy yet, and they are hesitant to approve this zone change until they come up with a policy of the paving of 151st Street or any arterial that is on a sand and gravel road.

DUNLAP If it was not in process over there, who would pay for that? If we didn't have a policy, would it be General Obligation funds?

MEYER Yes, presently there is not a requirement.

BISHOP Is it possible to get those verbal assurances on questions 2 and 3 in writing from Code Enforcement?

MEYER You're welcome to ask Code Enforcement to do that. I have met all of question 2. We have met the requirements for the water quality and quantity. For the drainage issue, we have met the requirements, and our plans have been approved by County Engineering. You are more than welcome to ask the County for further approval of that. I would hate to defer this thing further.

GAROFALO The last time we dealt with this, do you know if there has been any testing on the water there?

MEYER We have not done testing on water, and we are not required to do the testing. The County was willing to give us permits for wells there at this location.

MITCHELL Clarify there is no requirement for the County to issue a permit to have wells placed on this site. They just don't have any regulations?

MEYER That is correct. We did contact zoning when we first started the alternative sewers, and we said, "will we be issued permits on this for water or do we need to do anything?" And, we were told "no". You will be issued permits for water if you have one- acre lots. Then, they did give us requirements for testing for the alternative sewer system. We did go out and do that soil profile prior to even filing the plat.

JAN WEBER, 14722 W. 29th Street N., Wichita, KS 67223 My husband and I live out there. I would like to address the drainage in our area. I have three terraces going across my yard, two in the front and one in the back. The 13 years we have lived there we have pulled people out of the ditch. Now if you drive down that road 20-30 mph when it is muddy, forget it. The traffic is getting worse on this road. I would like to address the issue of the Northwest Expressway, which will pretty much take out my house or go in the middle and divide our farm. My house, I feel like now, will have all these backyards up against me. Our well is in the northwest corner of our property because that is where the driller said the best water was, that is down low. Where the houses are is on a hill and then it goes down drastically. Most of the good water is down low, so I don't know what the people are going to do up on the hill.

MITCHELL Would you outline on the map where you are now.

WEBER Shows on the map.

DR GREG REICHENBERGER, 15010 W. 29TH Street North, Wichita KS 67233-7062 I don't think this zoning fits into my neighborhood with my 5-acre development. I think it would be a mistake. There is a problem with the road. I have two wells on my property, and one of those failed on top of the hill. The water issue does need to be addressed. This is supposed to be one of the three highest elevations in western Sedgwick County, and they said it is pretty bad out there. Also, the terracing system, I still think that is an issue, and Mr. Meyer said it has been addressed, but there is a lot of water that comes across that terrace on my property too, and if they decide it is going to go down north of there, on their road, they are going to wash out that hill. We are only a mile and half from the sewer pumping station, and I feel that we are going to be left out of it. There is an issue of the fencing. If I have to live with a lagoon on my five-acres, the guy that is going to butt up to my property is going to look at that lagoon, and he is going to put a fence and we need to look at that too.

HENTZEN How close is the rural water district that is down on Colwich Road? How far north do they go?

REICHENBERGER I don't have a clue.

PHIL MEYER, BAUGHMAN COMPANY The drainage plan has been approved by County Engineering. Nobody knows where the Northwest Bypass is going. We have been talking about that for three or four years, and we still won't have it and we shouldn't hold up a development based on possibility of where it may or may not go. We've met all requirements. This is a zone change request to "SF-20". In your Comprehensive Plan are the one-acre lots more desirable than two-acre lots?

DUNLAP John, have you heard enough today to answer BOCC questions?

SCHLEGEL If you direct me to take the responses that the applicant gave to you today back to BOCC, then that is what I will do.

DUNLAP On question number 1, do you concur that current law or ordinance is that they are in compliance?

SCHLEGEL The current policy is that they have not been requiring applicants to pave from the nearest paved road out to the subdivision. What they have been doing is using cold mix-asphalt. to go back and provide paving on those roads once they get complaints. What they are finding, though, is that is a very expensive solution to that particular problem. The County will go broke always trying to fix those cold mix-asphalt roads. So the County is trying to develop a new arterial road paving policy. It is still in draft form, and it has not been approved by the BOCC.

JOHNSON The plat that was approved had 26 lots on it, correct?

MEYER Yes.

JOHNSON So presently, today, they can go out there and build 16 homes in this same area, and it would not be in front of us with a zone change.

MEYER We could re-file a plat that has 13 lots on it, and not have to do a zone change.

JOHNSON John, another thing, if this was approved and sent back to BOCC, can they defer amongst themselves, and not hear it until whenever?

MILLER I don't think they can defer it indefinitely. They could defer it for a reasonable amount of time to get answers to questions that relate to this case, but it could not be an indefinite deferral.

BOB PARNACOTT, ASSISTANT COUNTY COUNSELOR They could defer it, probably if they had a good reason to, to get additional information. But my history with them is they don't like to do that. If they did defer, it would be for a very, very, short period.

JOHNSON Do you know where they stand on this policy for paved roads?

PARNACOTT It is still being discussed.

JOHNSON For 10 years or how long?

PARNACOTT It will be longer then a week, but probably not 10 years.

MITCHELL I don't think the only option would be to go back to two-acre lots, but the third option would to re-file for zoning which would increase the number of lots and use the alternative community system, if and when that policy is approved. At that time, the road and water issue will have been address by the BOCC.

MARNELL That is a future issue, and since we are dealing with this today, and that policy doesn't exist yet is where we are.

BISHOP: Moved that we defer this item, and ask the applicant for written responses to the questions the BOCC is asking for.

MOTION DIES for LACK OF SECOND.

MARNELL moved, COULTER seconded a motion to approve the zoning change, subject to staff recommendations and conditions.

BISHOP I think the reason this has been such a struggle is because what we are talking about is an urban density subdivision in a rural area. The County Public Works Director has told us at Subdivision meeting that we don't do water. The County doesn't work well with urban density types of development, and so they are struggling to figure out a good way to deal with these. In the mean time, we continue to get these applications because we did not put any reasonable strictness in the last Comprehensive Plan.

MARNELL I'm going to support the motion because I think the application is appropriate and it does fit the current regulations.

GAROFALO When the minutes go to the BOCC, and these questions the BOCC wanted us to answer, on the first one, I don't see how we could possible resolve that when they are working on the policy, and it is a policy that they need to deal with.

MARNELL I would agree with you.

BISHOP I would respond. County Commission Winters asked who is supposed to pay that \$250,000 to improve that arterial, and the answer appears to be what we are saying everybody is suppose to pay that.

MARNELL I believe that is the current county policy.

MOTION CARRIED 8-2. (BISHOP and MITCHELL opposed)

BISHOP Somebody needs to point out to the neighbors that with the no protest method, if that goes forward with the plat, once this is approved that water and sewer service will likely cost them more than what would otherwise be the case.

MCKAY How can you say that? That is not true.

BISHOP Because they won't be able to share it.

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8. **Case No.: CON2003-38** - Rolf Patterson (Owner); Kimberly L. Le (applicant) Design Concepts c/o Ron Smith (agent) Request Conditional Use for Outdoor Vehicle and Equipment Sales on property zoned "LC" Limited Commercial on property described as;

Lots 76, 78, 80, 82, 84, 86 and 88, on Central Avenue, in Stite's Bros 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located At the northeast corner of Central and Piatt.

November 18, 2003 Wichita City Council returned to MAPC

BACKGROUND: The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on a 0.50-acre platted tract located at the northeast corner of Central and Piatt; 2014 E. Central, Lots 76-88, even, Stilies Brothers 2nd Addition. The subject property is zoned "LC" Limited Commercial and is developed with 5 bay door garage/office, used for vehicle repair, and a paved parking area with a chain link fence around the perimeter of the site. The vehicle repair shop, permitted by right, is leaving the site. Outdoor vehicle and equipment sales may be permitted with a Conditional Use in the "LC" Limited Commercial zoning district. The applicant has submitted a site plan.

The character of the neighborhood is that of local serving commercial uses along the Central corridor with residential uses located both north and south of the Central commercial corridor. The zoning of the properties to the south and east is "LC" Limited Commercial. The properties to the south across Central are developed with retail businesses, office, a

vehicle repair shop and a vehicle body repair shop. The property abutting to the east is developed as office, with retail and office further east across Ash Street. There is a Conditional Use for a car lot, CON03-01, 1 ½ blocks east of the site. This site has never developed as a car lot. Zoning of the properties to the north is "TF-3" Two-Family and "B" Multi-family. These properties to the north across the paved alley are developed with single-family residences. The properties to the west across Piatt are zoned "GC" General Commercial and "B" Multi-family. The Westar Electrical Utility office/contractor yard complex, dominates this area, extending north from Central, past the next block to the railroad tracks and west from Piatt, over a vacated block of Minnesota Avenue to IH-135. The complex wraps around an isolated single-family residence on Central.

The site plan shows a 344 square foot sales office, a 4,032 square foot garage/storage area and 11,857 square feet of vehicle display area. Included in this display area is a proposed outdoor storage yard. The site plan shows 11 employee/customer parking spaces, which appears to meet the Unified Zoning Code parking requirement. The site plan proposes landscaped street yard primarily in the Central and Piatt ROW, as well as an undetermined amount within the site along Central, within the interior and on the north side. The site plan proposes a six-foot high semi-solid fencing along the north property line merging with the wall of the garage wall. The semi-solid screening does not meet the Unified Zoning Code screening requirement. The site plan shows no lights, no trash receptacle and no proposed or existing signage.

The site currently has 5 existing entrances/exits (entrances); 2 on Piatt and 3 on Central. The site plan shows the 3 entrances that are closest to the Piatt – Central intersection as being closed, leaving the two farthest entrances from the intersection open. The site plan shows the closed entrances to be seeded with grass within the ROWs. The applicant shares the eastern entrance with the abutting office and proposes improvements to it including an island/median splitting the current uninterrupted 62-foot wide entrance.

CASE HISTORY: The subject property is platted as Lots 76-88, Stiles Brothers 2nd Addition, was recorded January 10, 1887.

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3" "B"	Single-family residence
SOUTH:	"LC"	Retail, office, vehicle repair & vehicle body repair
EAST:	"LC"	Office, retail and undeveloped car lot
WEST:	"GC"	Single-family residence & franchised utility office/contractor yard

PUBLIC SERVICES: This subject property has access to Central, a five-lane arterial street with current traffic volumes of approximately 17,300 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Central will increase slightly to approximately 17,800 vehicles per day and recommends that Central remain a five-lane arterial street. The proposed development would generate less than 100 trips in the peak hour; therefore, the City's Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. Municipal water and sewer services are currently provided to the subject property. The sewer is located in the alley abutting the north side of the site.

CONFORMANCE TO PLANS/POLICIES: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. The subject property is over a mile from the central business district and is not considered part of the CBD fringe. Another car sale lot, CON03-01, is located 1 block east of the site and was first and is currently the only site for car sales approved on Central east of IH-135. This site was vacant when approved and remains undeveloped. The nearest active car sale lot is located eight blocks to the west on the other side of I-135 and within the CBD fringe.

The Wichita Residential Area Enhancement Strategy of the Comprehensive Plan identifies this area as a Revitalization Area. A Revitalization Area is an area that is experiencing structural and market decline where private investment and development opportunities need to be encouraged through neighborhood stabilization and rehabilitation. The short term benefit for the area by allowing the Conditional Use for a car sales lot on the site; it will keep the property in use, with conditions attached to it that would improve the property. The long-term revitalization benefit to the area by allowing the Conditional Use for a car sales lot; it could encourage further investment into the property for improvements for the Conditional Use or another use. Approval of car sales lots has a tendency to attract more of these request/applications to the area where they are approved and establishing conditions that improve the property and encourage future investment is critical for the site and neighborhood.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, with conditions. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area, but there is another vehicle sales lot existing in the immediate vicinity. The MAPC has generally approved car sales lots on sites similar to this one, with conditions for development that would minimize impact on the area and improve the property of the Conditional Use.

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups.

2. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
3. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards. The site will be developed according to the revised site plan.
4. The applicant shall install and maintain landscaping in accordance with the revised landscape plan submitted with the revised site plan. The current landscape plan does not take full advantage of landscaping opportunities on the site. The landscaping plan will be reviewed and approved by the Planning Director, prior to issuance of any permits.
5. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
7. There shall be no use of elevated platforms for the display of vehicles. All vehicles for sale or for repair or detail must be on an approved all weather surface.
8. No amplification system shall be permitted.
9. No outside storage of salvaged vehicles, vehicles waiting for repair, or parts shall be permitted in association with this use.
10. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.
11. The applicant shall erect and maintain solid six-foot screening along the northern property lines that is adjacent to residential zoning and the existing residential development. The applicant shall be allowed to use the solid north wall of the garage as screening as long as no doors or windows open up onto the residential property across the alley, north of the site.
12. The applicant shall guarantee the closure of the Central and Piatt entrances that are closest to the intersection and continue the curb and gutter according to City standards. Dedication of access control closing the Central and Piatt entrances that are closest to the intersection by separate instrument shall be submitted to Staff for recording.
13. The applicant shall obtain all permits necessary to make the required site and landscaping improvements; all improvements shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. No selling of cars shall be allowed until all permits and improvements to the site have been made.
14. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is that of a local serving commercial corridor with low-density residential uses located behind the commercial businesses, with the exception being the Weststar office/contractors yard west of the site. Most of the property along Central is zoned "LC" Limited Commercial, with residential zoning in areas north and south of Central. There are several car repair shops in the immediate area that have vehicles parked outside waiting for repair or pick up. This use is less frequent east of Grove on Central.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is suitable for the commercial uses to which it has been restricted, including its current use as a site for vehicle repair.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Vehicle sales on a site this size when developed with the Conditional Use, will have a minimum of negative effect on the area and at best improve the property, with the application of additional access control, landscaping, screening and the other conditions on the site.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to

locations where traffic patterns, surrounding land uses, and utilities can support these activities. A Revitalization Area is an area that is experiencing structural and market decline where private investment and development opportunities need to be encouraged through neighborhood stabilization and rehabilitation. A Conditional Use for a car sales lot on this site does not meet the Commercial Locational criteria, but it may possibly met the criteria for revitalization by encouraging investment and upgrading to property which could encourage further investment and the continued use of property, rather than vacancy and decline.

5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate. Additional access control onto Central is an improvement as is the dedication of ROW to the alley, to cover the sewer line located in it, and any additional dedication required by the Public Works Engineer.

BISHOP Why is this being returned to us?

LONGNECKER There is no new information. The MAPC and DAB did approve this Conditional Use. The WCC sent it back for reconsideration. The Staff's recommendation for approval is the same.

GAROFALO Was there a reason given by the Council as to why this was sent back to us?

LONGNECKER There was an individual that was opposed to this Conditional Use, and the individual was under the impression that they were going to be able to address the Council. They were not able to address the Council, and I think the Council decided to extend the courtesy to let him readdress the issues with the MAPC. I think that was the purpose of sending this back to MAPC.

GAROFALO So do you know if that person is here?

LONGNECKER I do not see that person here.

MOTION: To approve item #8.

MITCHELL moved, **COULTER** seconded the motion, and it carried (9-1) **BISHOP** opposed.

JOHNSON Dale, isn't it right that if staff is in agreement, and the vote goes in that favor, whoever votes against aren't they supposed to give a reason why they are not in support?

MILLER Typically, if the Council or whoever is going to follow the Commission recommendation; if there is an opposition vote it helps to understand why they voted no if they are given a brief opportunity to explain why.

BISHOP Is that a request for me to explain why I voted against the previous application? I believe the application is not in conformance with Comprehensive Plan. Typically, at least over the last several months, the recommendation from staff is for approval. In the past staff had been regularly overruled by the MAPC, if they recommend denial based on the location not being in conformance with the Comprehensive Plan. I think staff has given up on car lots. Unless and until we change the Comprehensive Plan I am going to go along the Comprehensive Plan.

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9. **Case No.: ZON2003-59** - Neville Family Trust c/o Rita Neville (Owner/Applicant); Baughman Company, PA c/o Terry Smythe (Agent) Request Zone change from "SF-5" Single-family Residential to "NR" Neighborhood Retail on property described as;

Lots 76, 78, 80, 82, 84, 86 and 88, on Central Avenue, in Stite's Bros 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located Approximately 1/4 mile east of the Maple Street – 135th Street West intersection, on the south side of Maple Street

BACKGROUND: The applicant requests a zone change from "SF-5" Single-family Residential to "NR" Neighborhood Retail on 4.6 acres of unplatted, undeveloped land located on the south side of Maple Street, approximately one-fourth mile east of the 135th Street West and Maple Street intersection. The subject site has frontage on Maple Street. The northern approximately one-third of this tract is currently being excavated to create a drainage detention pond. Storm water from both the subject site and the abutting DP-219 Auburn Hills Commercial Community Unit Plan area on the subject site's west side will go into this drainage detention pond on the subject site's Maple Street frontage.

The application area is located between an established single-family residential subdivision located to the east, and a developing commercial center, DP-219 Auburn Hills C.U.P., located to the west. Property to the north, across Maple, is zoned "SF-5" Single-family Residential and developed with single-family residences. Property to the northwest is zoned "LC" Limited Commercial and subject to development restrictions, Protective Overlay #17, that limits uses, building signage and access points. The property to the south is undeveloped and zoned "MF-29" Multi-family Residential, and is covered by Protective Overlay #38 that addresses architectural compatibility and density.

This site, along with the other corners of the Maple and 135th Street intersection are covered by the Far West Side Commercial Development Policy which limits this intersection to 24 acres of nonresidential development and indicates that signage should be low, small and monument style, and that there be architectural compatibility within developments

and that commercial developments should be compatible with surrounding residential uses. The intersection currently has 28 acres of commercial zoning approved, and has development guidelines that comply with the west side development policy.

CASE HISTORY: The subject site is a 4.6 unplatted tract. The subject site was included in the request for Community Unit Plan DP-219 and the associated zoning case Z-3191, a request for a zoning change of "AA" single-family residential to "LC" Light Commercial for 17.32-acres located on the southeast corner of Maple Street and 135th Street West. DP-219 and Z-3191 were approved by WCC on May 7, 1996, but without the subject site being part of the CUP or zoning change. The creation of the Far West Side Commercial Development Policy was triggered by the DP-219 and the Z3191 application.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single family residential
"LC" not developed
SOUTH: "MF-29" not developed
EAST: "SF-5" Single family residential
WEST: "LC" not developed, developing into a Dillons

PUBLIC SERVICES: The site has frontage along Maple Street. Maple is improved with four lanes, a center turn lane and decel lanes at the intersection of Maple and 135th Street West. East of the intersection Maple is classified as a 4-lane arterial. Current average daily trips (ADT) are 3,096 ADTs east of the intersection; with projected traffic volumes for 2030 were estimated at 6,800 ADTs. However, it is predicted that if the northwest bypass were to be constructed, traffic volumes would more likely be in the 9,000 to 10,000 ADT range. No improvements are scheduled on the city or county capital improvements program for Maple. Water and sewer are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The proposed "NR" Neighborhood Retail zoning would accommodate very low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods. The proposed "NR" zoning would serve as a transitional zoning district between the existing "LC" zoning to the west and the "SF-5" zoning and its existing single-family development to the east.

The Far West Side Commercial Development Policy, adopted by the City Council in 1996, indicates that the scale of commercial development at the intersection of Maple and 135th Street West should be limited to a total of 24 acres for all four corners and a maximum of 12 acres at any one corner. The Far West Side Commercial Development Policy also recommends that the appearance of commercial development should have certain characteristics in terms of signage, lighting, landscaping, shared internal access and architectural design.

RECOMMENDATION: The subject site was originally a part of the DP-219, Auburn Hills Commercial C.U.P. and Z-3191 application, which triggered the Far West Side Commercial Development Policy. The current application for "NR" zoning on the site fails to address some of the guideline concerns of the policy, especially in its relationship with the approved DP-219 abutting its west side. The approved drainage plan for DP-219 has integrated the subject site's northern one-third into it by using it for an off-site drainage detention pond to be shared with the subject site. With some more consideration, the possibility of more integration of the two sites would bring both sites closer to realizing the Far West Side Commercial Development Policy guidelines. Issues that need to be addressed include: (a) shared access onto Maple Street between DP-219 and the subject site, (b) consideration of the location, shape and size of the shared drainage detention pond on the subject site's Maple Street frontage and how this limits the subject site's location for access location, shared internal access between DP-219 and the subject site to allow vehicular movement between the two sites, and (d) coordination between the two sites screening and landscaping requirements. The recently approved landscaping plan for the Dillon's being constructed on Parcel 1 of DP-219 shows extensive landscaping between the two sites, with no access between the two. With the subject site's change in the zoning from "SF-5" to "NR" the need for the CUP's masonry wall would not be needed; thus other opportunities for shared internal access as well as integrating the design of the two sites. Planning Staff feels the zoning request for "NR" is appropriate for the site if issues of shared access onto Maple, shared internal access, and integrated design can be addressed within the guidelines of the Far West Side Commercial Development Policy and a Protective Overlay. Application of this policy would require dialogue with the owners of DP-219, which Staff has initiated.

Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED, with Protective Overlay #130;

- (1) 35-foot setbacks along the site's south, north and east sides.
- (2) Monument sign with a maximum sign face of 48 square-feet and a height of 8feet. No flashing, rotating, moving signs or portable signs. Window display is limited to 25% of the window area. No signs allowed on the rear or any side facing the residential zoning to the east or the south of the site.
- (3) A plan for a pedestrian walk system linking proposed buildings to the sidewalk along Maple and the sidewalks on the abutting eastern DP-219 AUBURN HILLS C.U.P. shall be submitted for review and approval by the Planning Director.
- (4) Shared internal access and shared access onto Maple Street with Parcel #4 of DP-219 AUBURN HILLS C.U.P.

- (5) All exterior lighting shall be shielded to prevent light disbursement in a southerly or eastern direction. Lighting shall be similar to DP-219 AUBURN HILLS C.U.P. lighting elements, shall be no higher than 14-foot when within 100-feet of abutting residential zoned properties, behind the 35-foot setback along the south and east sides of the property and 20-feet high on the remainder of the site. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
- (6) All utilities installed underground.
- (7) Landscaping plan shall show location, type and specifications of all plant material, to be reviewed and approved by the Planning Department. Landscaping shall be calculated at 1.5 times the minimum ordinance requirements along the sides of the site abutting residential zoning and the street side. Parking lot landscaping shall be per the ordinance. Landscaping shall be required prior to the issuance of any occupancy permit.
- (8) A 6-foot masonry wall, constructed of similar materials to the masonry wall on DP-219 AUBURN HILLS C.U.P. shall be constructed along the site's east and south sides.
- (9) Trash receptacles shall be appropriately screened to hide them from ground view.
- (10) Rooftop mechanical equipment shall be screened from ground level view per the Code of Wichita.
- (11) All buildings shall share uniform architectural character, color, texture and the same predominate exterior building materials.
- (12) 20-foot landscape and wall easement along the south and east sides of the tract
- (13) Prohibited uses include group residences, correctional placement residences, group homes, multifamily, asphalt and concrete plant, limited.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property in the neighborhood is zoned either "GO" or "LC" on the four corners of the Maple Street – 135th Street West intersection; all have either a community unit plan overlay or protective overlay on the non-residential zoning. Beyond the intersection, the neighborhood is predominately zoned "SF-5", with the exception of some "MF-29" multi-family residential and some "TF-3" two-family residential zoned property. The character of the neighborhood is that of a developed and developing suburban residential neighborhood that has displaced the prior agricultural uses of the area. These residential areas abut the non-residential zoning at the intersection of Maple and 135th Street West, which is developed or developing with office, medical services and retail.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "SF-5" Single-Family Residential and could be developed as zoned, although the location and size of the drainage detention pond and the resulting loss of buildable land on the site leaves a small isolated area for single-family residential development.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on residential properties in the area would be minimized by a Protective Overlay, which would address setbacks, screening, access, design, and should limit noise, lighting, and other activity from adversely impacting residential properties. The proposed "NR" zoning could serve as a transitional zoning between the existing undeveloped "LC" zoning west of the subject site and the existing "SF-5" zoning and its single-family residential development east of the subject site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. The proposed "NR" zoning would accommodate very low intensity retail and office development and other complementary land uses that serve and are generally appropriate near residential neighborhoods. There is a lack of application of the Far West Side Commercial Development Policy guidelines to the site. Considering that this site was originally part of the CUP that triggered the Far West Side Commercial Development Policy, it is appropriate to apply those guidelines to this site.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

MAPC Deferred November 20, 2003

MCKAY Declared a conflict of interest because he owns abutting property.

TERRY SMYTHE, Baughman Company We are in agreement with the Protective Overlay conditions.

WILLIAM BERENS, 381 Limuel Ct., Wichita, KS 67235 From reading this P.O., this is adequate for DP-219, and the property to the east of it. The concerns are the time frame; when the development will occur. DP-219 did not plan on doing the screening. How long will we have to look at the traffic and the lighting?

BISHOP I am trying to understand Condition #8 of the P.O. Is what the problem is you don't know when that will be built?

BERENS Yes, we don't know how long it will take for them to put the wall up.

SMYTHE It is my impression the wall requirement on the Dillon's is still in place regardless of whether we get our zoning in here or not. We have one year to plat the property. If we get rezoning today, so prior to anything built on this particular piece of property the wall would go up prior to the occupancy. Now with Dillon's being built today, since our zoning won't be in effect until we get the plat done, Dillon's, I still believe, has their requirement to build their wall on their east property line.

BISHOP It seems there will be two walls facing each other.

SMYTHE This particular zone change requires a wall along the east side of the black line the east side of our property abutting the homes to the east. The old CUP has that requirement on their east side. There will be a wall there at one time or another.

COULTER After yours is built, you will have internal access between that and Dillon's?

SMYTHE The internal access will occur off of Parcel 4, which is Lot 4.

MARNELL So there may be two walls real close to each other?

LONGNECKER Staff has initiated discussion with Dillon's and the Neville Family in regards to the screening issue. We do not want to see a wall between the two developments, and we would like to see more integrated screening and access between these two pieces of property. Integration of the two developments has already occurred with the drainage plan for the CUP. The CUP property, as well as the subject site, will drain into a retention/detention pond located on the north 1/3 or 1/2 of the subject site. Further Integration of the two developments would be in the spirit of the Far West Side Commercial Development Policy, of which the Dillon's' CUP was the trigger that initiated this policy. As of this morning, the agent and the applicant have not had a chance and sit down face to face with Dillon's, but my understanding is that both parties are making an effort.

BISHOP If that is the case, can that be done with an administrative adjustment?

LONGNECKER Yes, either an adjustment or amendment to the Dillon's' CUP.

MARNELL I think what we are dealing with is a timing issue, because the neighborhood comment would indicate that it would be nice to get the wall up next to the neighborhood up, but the development is first happening on that on part.

MITCHELL That was my question, what could be done before this change is approved within a reasonable period of time?

LONGNECKER There is the requirement of platting within one year. We still haven't resolved the wall Dillon's is required to put up at this point, because it is a timing issue.

MITCHELL The neighbors want it along the east and the south, and you are saying it could take a year?

LONGNECKER Yes, with the platting requirement.

SMYTHE Dillon's is under construction today, and they have the requirement to do the wall. We have the requirement to build a wall along the east side per this zone change. If the Neville Family and Dillon's can sit down and resolve this, it would be great.

MARNELL Will your platting be far enough along to allow the wall to get put in at that point?

SMYTHE I don't think there is anything to stop a wall from being put on our property today if Dillon's were to walk in and say can we do it, and I think the Nevilles would look favorably to that.

MARNELL It seems like the incentive is there to jointly share building one wall instead of each of you have to build two.

DUNLAP How soon will you plat this?

SMYTHE Within a month we will start.

DUNLAP I'm hearing the Commissioners saying we don't want to leave the neighbors without a wall.

SMYTHE I agree, and that is why the Neville Family has committed to build a wall on their east side.

GAROFALO Are you in discussion with Dillon's?

SMYTHE There has been discussions about the wall with the architect and Dillon's as to where the wall should be a when. We just haven't got the two main parties together.

MOTION: To approve subject to a satisfactory agreement between the parties to create one wall along the east and one wall on the south.

DUNLAP moved.

MARNELL I don't think we can do that.

DUNLAP withdraws motion.

MOTION: For approval of this zone change subject to staff recommendations.

WELLS moved, **DUNLAP** seconded the motion, and it carried (9-0-1) **MCKAY** abstains.

10. **Case No.: CON2003-44** - Gerald L. and Suzanne M. Kerr (owner) Request Conditional Use for a Bed and Breakfast on property zoned "TF-3" Two-family Residential on property described as;

Lots 63, 64 and the East Half of Lot 65, and the South Half of vacated alley adjacent on the North, Hyde and Ellis Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located East of Holyoke on the north side of Country Club (3308 Country Club)

BACKGROUND: The applicants, Gerald and Suzanne Kerr, are requesting a Conditional Use to allow a three-room bed and breakfast inn to be operated at their current residence at 3308 Country Club. The lot is 0.22 acre in size (57.675' X 168.825'), and is located on the north side of Country Club between Holyoke and Rutan. The residence is a one-and-one-half storey cross-gable bungalow. The applicants intend to move an existing garage to closer to the rear of the property, and add a parking area between the house and the garage to meet the parking requirements.

According to the Unified Zoning Code (UZC), a Bed and Breakfast is an owner-occupied or manager-occupied residential structure that provides rooms for temporary lodging or lodging and meals for not more than 15 transient guests on a paying basis. A transient guest is a person who occupies a room for a period of less than one week at a time.

The properties to the north, east and west are zoned "TF-3" Two-family Residential and consist mostly of single-family dwellings. The property to the south is zoned "B" Multi-family Residential and "TF-3". It is the location of the Wichita Children's Home, an institutional-type of group home for children. "GO" General Office zoning is located within a block of the proposed bed and breakfast. The "GO" uses are medical services associated with the Wesley Medical Center. The property is about two blocks from the main Wesley hospital facility.

CASE HISTORY: The property is platted as Hyde and Ellis Addition, April 2, 1919. This is a replat of Livingston's Addition to Block 2 (April 4, 1887) to the Frisco Addition (September 4, 1885). The original plat of Frisco Addition dedicated 100 feet of right-of-way for Country Club (named 8th Street in the plat). This is an unusually wide street for a residential street. An alley along the north edge of the property was vacated previously (V-0540).

ADJACENT ZONING AND LAND USE:

NORTH:	"TF-3"	Single-family residences
SOUTH:	"B"; "TF-3"	Wichita Children's Home
EAST:	"TF-3"	Single-family residences
WEST:	"TF-3"; "GO"	Single-family residences, medical office

PUBLIC SERVICES: Access is from Country Club, a residential street with 100 feet of right-of-way and 29 feet of paved width. The sidewalk is located approximately 15 feet south of the property line.

CONFORMANCE TO PLANS/POLICIES: The 2001 Sedgwick County Development Guide Land Use Guide of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* designates this area as "low density residential".

The Unified Zoning Code ("UZC") allows bed and breakfast as a Conditional Use in the residential zoning districts in compliance with UZC site requirements for parking, screening, lighting, and compatibility setback standards and with Landscape Ordinance requirements. No specific requirements are specified for bed and breakfast inn other than the stipulation that it be an owner-occupied or manager-occupied structure.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED, subject to the following conditions:

1. The site shall be developed and operated in general conformance with the MAPD approved site plan and landscape plan.
2. Construction of improvements shall be completed within one year of approval by the appropriate governing body.
3. The applicant shall obtain all inspections, permits and licenses from the City, prior to operating the bed and breakfast inn.

4. The owner or the manager of the bed and breakfast inn shall reside in the primary structure.
5. There shall be three rooms designated for the bed and breakfast business and there will be a maximum of six transient guests at any one time. These rooms shall be shown on a floor plan required for approved by Office of Central Inspection for a change of occupancy to bed and breakfast inn within a single-family residential structure.
6. No freestanding signs shall be allowed. One building wall sign shall be permitted to identify the establishment. This sign shall be mounted on the front facade of the house, be no more than nine square feet in size and be lit with indirect lighting only or no lighting. The Superintendent of Central Inspection shall review and approve the sign as to compliance with the location and materials required.
7. Four parking spaces shall be provided onsite as indicated on the approved site plan, with one space for the owner/resident-manager of the property and three spaces for the guests. The parking area shall be paved, marked and be located in the rear yard of the property behind the main structure.
8. A screening wall or fence constructed of brick, stone, concrete masonry, stucco, concrete or wood (not including woven wire) at least six but not more than eight feet in height, or solid evergreen screening shall be installed to screen the rear yard (side property lines from a point even with the back of the main structure and rear property line) from the adjoining residential lots. This screening wall in the rear yard shall be maintained or replaced as approved for solid screening, per the UZC.
9. Lighting shall be directed downward and away from adjoining properties and shall be limited to no more than 14 feet in height for any lighting, including the pole, base and fixture.
10. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties to the north, east and west are zoned "TF-3" Two-family Residential and consist mostly of single-family dwellings. The property to the south is zoned "B" Multi-family and "TF-3". It is the location of the Wichita Children's Home, an institutional-type of group home for children. "GO" General Office zoning is located within a block of the proposed bed and breakfast. The "GO" uses are medical services associated with the Wesley Medical Center. The property is about two blocks from the main Wesley hospital facility.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "TF-3" two-family residential, but is developed with a single-family residence, and could continue to be used as a single-family dwelling. It could also be converted to a duplex by right. The desirability of the dwelling as a bed and breakfast inn is enhanced by its proximity to the Wesley Medical Center and the Wichita Children's Home, which could attract potential clientele
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Conditional Use for a bed and breakfast will encourage preservation and renovation of the current structure in order to attract clientele to lodge in the facility. This investment could be viewed as desirable for encouraging investment in renovating other residences in the vicinity, particularly since some of the housing stock along Holyoke is in need of repair and some of the dwellings appear vacant. The bed and breakfast inn would introduce another nonresidential use into the neighborhood and permit a small number of transient guests to stay in the neighborhood, which may be viewed as a detrimental effect to stability of the residential neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan identifies this property as "low density residential." The Unified Zoning Code permits bed and breakfast inn as a Conditional Use when it is determined to be an appropriate site for this type of use and when the bed and breakfast inn can meet site development requirements of the Conditional Use and UZC. The conditions of approval are designed to meet these criteria.
5. Impact of the proposed development on community facilities: The impact on community facilities should be minimal so long as all required parking is onsite and is adequately paved and screened from adjoining properties. No impact is anticipated on other utilities.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **WELLS** seconded the motion, and it carried (10-0).

11. **Case No.: CUP2003-58 DP183 Amendment #12** - K-DA Inc. c/o Norma J. Davis (Owner/Applicant);
Baughman Company c/o Terry Smythe (Agent) Request Amendment to The Davis-Moore Community Unit Plan
on property described as;

The West 100 feet of Lot 1, Universals First Addition to Wichita, Kansas, Sedgwick County, Kansas, together
with the east 10 feet of vacated Waverly Street adjacent on the West and the West 20 feet of the East 30 feet of
the North 100 feet of vacated Waverly Street adjacent on the West.
and

The West 110 feet of Lot 2, except the South 160 feet thereof, Universals First Addition to Wichita, Kansas,
Sedgwick County, Kansas, together with the east 10 feet of vacated Waverly Street adjacent on the West.
Generally located South of Kellogg, approximately 1/4 mile east of Edgemoor.

BACKGROUND: The applicant requests an Amendment to DP-183 Davis Moore CUP to increase the size of the CUP to
include additional property. The subject property is zoned "LC" Limited Commercial and is located south of Kellogg and
east of Edgemoor. The subject property is currently developed with a car wash that the applicant proposes to demolish.
The applicant proposes to use subject property for vehicle sales. The applicant owns the surrounding properties, which
primarily are zoned "LC" Limited Commercial and permit vehicle sales and associated uses through the provisions of DP-
183.

Vehicle sales may be permitted on property zoned "LC" Limited Commercial with approval of a CUP. The applicant
requests that the existing provisions of DP-183 apply to the subject property (see attached CUP for provisions).

The surrounding area is characterized primarily by regional commercial uses along the Kellogg corridor. With the
exception of properties across Kellogg to the north, all surrounding properties are zoned "LC" Limited Commercial or "GC"
General Commercial and are used for vehicle sales and vehicle-related uses. The properties to the north across Kellogg
are zoned "SF-5" Single Family and are developed with single-family residences.

CASE HISTORY: DP-183 was approved March 29, 1988 and has been amended 11 times, primarily to permit the
expansion of the Davis-Moore vehicle dealerships.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single-family residences
SOUTH:	"LC"	Vehicle sales
EAST:	"LC"	Vehicle sales
WEST:	"LC"	Vehicle sales

PUBLIC SERVICES: The subject property has access to Kellogg Drive, an access road to the Kellogg Freeway.
Planning staff estimates that the proposed development will decrease the amount of traffic generated by the subject
property in comparison to the previous car wash use; therefore, the Access Management Policy indicates that the
applicant does not need to prepare a traffic impact analysis. The subject property is currently served by municipal water
and sewer service.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location
as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan
recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit
noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms with the
Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the
request be APPROVED, subject to the following conditions:

1. The development of this property shall proceed in accordance with the approved development plan, and any
substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall
constitute a violation of the building permit authorizing construction of the proposed development.
2. Any major changes in the development plan shall be submitted to the Planning Commission for consideration.
3. The applicant shall submit four 24" x 36" folded copies and one 11" x 17" copy of the CUP to the Metropolitan
Area Planning Department within 60 days after approval, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by
regional commercial uses along the Kellogg corridor. With the exception of properties across Kellogg to the
north, all surrounding properties are zoned "LC" Limited Commercial or "GC" General Commercial and are used
for vehicle sales and vehicle-related uses. The request is consistent with the zoning, uses, and character of the
neighborhood.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and is currently developed with a car wash. The proposed vehicle sales lot may be permitted in the "LC" Limited Commercial zoning district with approval of the requested CUP amendment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The existing provisions of DP-183 should limit noise, lighting, and other activity from adversely impacting surrounding residential areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms with the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **WELLS** seconded the motion, and it carried (10-0).

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12. **Case No.: ZON2003-62** – Oaklawn Improvement District (owner), MKEC, c/o Brian Lindebak (agent) Request Sedgwick County Zone change from "SF-20" Single-family Residential to "GC" General Commercial on property described as;

A tract of land lying in a portion of Reserve "C", Oaklawn, Sedgwick County, Kansas, said tract being more particularly described as follows: The North 40 feet of the East 100 feet of said Reserve "C". Said tract contains 0.09 acres of land more or less. Generally located West of Cedardale Avenue on the south side of 47th Street South.

BACKGROUND: The applicant is requesting to rezone a 0.09-acre tract from "SF-20" Single-family Residential to "GC" General Commercial to permit placement of a community sign on the site within the Idlewild Park that is located in the Oaklawn community. The site is located along 47th Street South approximately 150 feet west of Cedardale Avenue. Staff has been told the sign would be used primarily to provide information on upcoming community events. The proposed sign is approximately 25 square feet in size and 18 feet in height. The rezoning request comprises only 4,000 square feet and is designed only as a site for the sign to be located and not for other commercial types of use.

The zone change is requested because the sign is considered an off-site sign and the Unified Zoning Code prohibits off-site signage in the "LC" and less intensive zoning districts in the unincorporated areas of Sedgwick County.

Other surrounding land uses includes a real estate office on property zoned "SF-5" Single-family Residential abutting the proposed site for the sign on the east, single-family housing to the east and southeast on property zoned "SF-5", a natural gas utility facility and parkland to the south and west, another large open field to the northwest, and more single-family housing to the northeast. The Arkansas River is approximately ¼ mile to the west. Cooper Elementary School is located two blocks north of the site and is visible from the community center.

CASE HISTORY: The property is part of Reserve C, Oaklawn Subdivision, recorded December 5, 1951.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Open space
SOUTH:	"SF-20"	Parkland, community center
EAST:	"SF-5"	Single-family residential, real estate office
WEST:	"SF-20"	Utility facility, parkland

PUBLIC SERVICES: The site is located on 47th Street South, a four-lane principal arterial. Other normal public services are available. The proposed sign should not affect or require additional public services.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the *1999 Update to the Wichita/Sedgwick County Comprehensive Plan*, amended in January 2002, identifies the property as appropriate for "parkland and open space".

RECOMMENDATION: The request is solely intended to provide zoning that would allow placement of a modestly sized sign to display messages about community functions in Oaklawn. Based on these factors plus the information available prior to public hearing, planning staff recommends that the request be APPROVED, subject to the following provisions of a Protective Overlay District:

1. The property shall be limited to the placement of one ground sign that is no greater than 20 feet in height and larger than 30 square feet in area and those uses permitted in the "SF-20" Single-family Residential zoning district.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the north and east is zoned "SF-5" Single-family Residential and developed single-family residences; a real estate office also adjoins the property to the east. The property to the northeast, zoned "SF-20" Single-family Residential, is a large open tract along the Arkansas River. The property to the west and southwest, zoned "SF-20" is also open space for parkland, Idlewild Park and community center, and a natural gas facility is located adjacent to the proposed site for the sign within the park. A school is located two blocks north of the proposed site.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20", and should continue to be used as open space/parkland except for the 4,000 square foot area where the sign would be located.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The zone change should have minimal effects on the surrounding property because of the protective overlay restrictions to limit the use of the "GC" tract to the small size and to allow only the sign as an additional use to the "SF-20" uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the *Comprehensive Plan* identifies the area as suitable for parkland/open space. The proposed sign supports the institutional nature of the park and adjoining community facility by providing informational messages on upcoming community events and activities.
5. Impact of the proposed development on community facilities: None anticipated.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **WELLS** seconded the motion, and it carried (10-0).

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13. **Case No.: ZON2003-61** - West Wichita Development Inc. (Jay Russell); Baughman Company, P.A. (Terry Smythe) Requests zone change from "GC" General Commercial to "SF-5" Single-family Residential on property described as;

The south 600.00 feet of the Southeast Quarter of the Southeast Quarter of Section 26, Township 27 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, except the east 990.00 feet thereof, and except that part condemned for U.S. Highway 54 in Case No. A-38302, and except that part of the Southeast Quarter of said Southeast Quarter lying south of the following described line: Commencing at the intersection of the north line of said U.S. Highway 54 with the west line of the Southeast Quarter of said Southeast Quarter; thence north along the west line of the Southeast Quarter of said Southeast Quarter, 330.01 feet to a point 330.00 feet normally distant north of the north line of said U.S. Highway 54, and for a point of beginning; thence east parallel with the north line of said U.S. Highway 54, and as extended easterly, 319.91 feet to a point 990.00 feet normally distant west of the east line of said Southeast Quarter, and there ending, TOGETHER with the south 600.00 feet of the Southwest Quarter of said Southeast Quarter, except the west 30 acres thereof, and except that part condemned for U.S. Highway 54 in Case No. A-38302, and except that part of the Southwest Quarter of said Southeast Quarter lying south of the following described line: Commencing at the intersection of the north line of said U.S. Highway 54 and the east line of the west 30 acres of the Southwest Quarter of said Southeast Quarter; thence north along the east line of said west 30 acres, 330.01 feet to a point 330.00 feet normally distant north of the north line of said U.S. Highway 54, and for a point of beginning; thence east parallel with the north line of said U.S. Highway 54, 316.86 feet to a point on the east line of the Southwest Quarter of said Southeast Quarter, and there ending. Generally located North of Kellogg, approximately 1/4 mile west of 135th Street West

BACKGROUND: The application area is located north of Kellogg approximately 330 feet, and 1/4 mile west of 135th Street West. It is a 2.8 acre tract that is part of the proposed Auburn Hills 15th Addition. Based on that plat, the application area will be developed with four platted single-family lots. However, the property is currently zoned "GC" General Commercial. Since the property is intended for single-family use, one of the conditions of plat approval is to downzone the property to "SF-5" to match the intended use. The site is undeveloped today. Access to the site is via a new street that will connect the application area to Kellogg Drive, a frontage road to be constructed along the north side of US Highway 54 or from a new street that will be an extension of a street running south from an existing portion of Auburn Hills.

Surrounding property is a mix of undeveloped, vacant or developing residential, church or farm ground uses. Zoning for these adjacent properties is either "GC" General Commercial or "SF-5" Single-family residential.

CASE HISTORY: Auburn Hills 15th Addition was approved by the MAPC on November 6, 2003.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Single-family Residential; developing residential
SOUTH: "GC" General Commercial; vacant
EAST: "GC" General Commercial; church
WEST: "GC" General Commercial; vacant

PUBLIC SERVICES: Services are either available or are planned for extension.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" depicts this site as being appropriate for "low density residential." The "low density residential" category provides for the lowest density of urban residential land use and consists of single-family detached homes, zero lot line units, cluster subdivisions and planned developments with a mix of housing types....

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to completing the platt within 1-year.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Surrounding property is a mix of undeveloped, vacant or developing residential, church or farm ground uses. Zoning for these adjacent properties is either "GC" General Commercial or "SF-5" Single-family residential. This tract is adjacent to, and intended to be part of, a larger developing residential subdivision.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned, but it would be more appropriate to downzone the site to a zoning district that is more reflective of the intended use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: There should not be any detrimental affects to nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is in conformance with adopted plans.
5. Impact of the proposed development on community facilities: Increased demand for municipal services generated by this development will be addressed by already committed or planned improvements.

MCKAY conflict of interest.

MOTION: To approve, subject to staff comments and citing the findings in their report.

COULTER moved, **JOHNSON** seconded the motion, and it carried (9-0-1) **MCKAY** abstains.

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14. **Case No.: CON2003-42** - LeRoy & Janice Clasen (Owner) Spenser & Susan Atha (Contract Purchaser) Terra Tech Land Survey c/o Michele Webster (agent) Request Sedgwick County Conditional Use for a private airstrip on property zoned "RR" Rural Residential on property described as;

A tract of land located in the North Half of the Southeast Quarter and in the Northeast Quarter of Section 15, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas, described as follows:
Commencing at the Northeast corner of said Northeast Quarter; thence N 89 degrees 00'10" W on an assumed bearing along the north line of said Northeast Quarter, 1463.0 feet to the point of beginning; thence S 0 degrees 53'13" E, 1653.40 feet; thence S 42 degrees 09'20" E, 258.50 feet; thence S 0 degrees 36'05" W, 2118.17 feet to the south line of said North Half of said Southeast Quarter; thence N 89 degrees 13'14" W along the south line of said North Half of said Southeast Quarter, 1362.70 feet to the Southwest corner of said North Half of said Southeast Quarter; thence N 0 degrees 03'58" W along the west line of said North Half of said Southeast Quarter, 1320.89 feet to the corner common to the North Half of said Southeast Quarter and the Northeast Quarter; thence N 0 degrees 03'54" W along the west line of said Northeast Quarter, 2644.18 feet to the Northwest corner of said Northeast Quarter; thence S 89 degrees 00'10" E along the north line of said Northeast Quarter, 1190.43 feet tot he point of beginning. Generally located South of 13th Street North approximately 1/4 mile west of 343rd Street West

BACKGROUND: The applicant is requesting a Conditional Use to permit the construction of a private airstrip, with hangars to be used by single-family residences on the 118-acre tract located south of 13th Street North & ¼ mile west of 343rd Street West. The proposed site is in an unincorporated far western portion of Sedgwick County and is currently in agricultural use. The subject property is zoned "RR" Rural Residential. The "RR" district permits an "airport or airstrip" with the approval of a Conditional Use. A hangar is included within the Unified Zoning Code's definition of an "airport or airstrip" as an accessory building as long as it serves the aircraft using the "airport or airstrip". Access onto the "airport or

airstrip" would be defined as a taxiway, which is also within the UZC definition of an "airport or airstrip" as accessory feature serving the aircraft using the Airport or Airstrip.

The applicant has provided a site plan, which shows a development including seventeen 5-6 acre lots. These seventeen lots are bunched into four groups of 4 or 5 lots per group. Every lot in each group abuts a cul-de-sac private drive/taxiway. The private drives/taxiways feed into a proposed road, running north-south, located on the west side of the development. The proposed road provides access onto 13th Street North for the development. To access the private airstrip planes would need to cross this road. The airstrip runs north-south along the length of the development's western edge.

The applicant has stated their intention that they and another flyer will own eight of the seventeen lots, each keeping 4 lots for their own single-family residence. The remaining nine lots could each have a single-family residence, with a hangar for private aircraft on each single-family residential lot. The applicant has indicated that no stand-alone hangars will be allowed on the lots; to have a hangar you must live on the lot(s). Storage of personal aircraft is to be available only to the current homeowners living on the lots. The applicant also indicates that no business activities would be permitted in the hangars. The applicant has not indicated how large the hangars will be, but has noted that it could be expected that a resident of the development could have more than one aircraft.

The character of the surrounding area is primarily agricultural and scattered large tract single-family residence. There are 14 single-family residences located northeast, northwest, west, south and southwest of the proposed site, with the closest residences abutting and adjacent to the northwest side of the site. There are 3 large platted lots, identified as the Heimerman Meadows Addition, approximately 670-feet directly south of the site. Two of these lots have houses on them that were built within the last two years. An older home abuts the west side of the Heimerman Meadows Addition. The western two of these four southern homes appear to be directly under the flight path to the airstrip. Another house is going up east of the site. All of the property surrounding the subject property is zoned "RR" Rural Residential.

CASE HISTORY: The site is an unplatted tract.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Rural Residential	Agricultural, 1 large tract single family residences
SOUTH:	"RR"	Rural Residential	Agriculture, 4 large tract single family residences
EAST:	"RR"	Rural Residential	Agricultural, 3 large tract single family residences
WEST:	"RR"	Rural Residential	Agricultural, 6 large tract single family residences

PUBLIC SERVICES: The subject property has access onto 13th Street North, an unimproved, Grand River Township road. One-quarter mile east of the site is 343rd Street West, a two-lane paved Sedgwick County highway. No traffic volume information is available for these two roads. The subject property is outside any Rural Water service area and public sewer service is not available to serve the site.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan identifies this property as being outside the 2030 growth area. The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The Wichita-Sedgwick County Unified Zoning Code (UZC) lists "airport or airstrip" as a Conditional Use in the "RR" district.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED, this recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning of all properties surrounding the subject property is "RR" Rural Residential. Uses and the character of the surrounding area are primarily agricultural with established large tract single-family residential development abutting or adjacent to the proposed development/airstrip. There have also been two single-family residences built since 2001 that are approximately 670-feet directly south of the site. One of these houses along with an older home appears to be directly south of the approach to the proposed airstrip. Another single-family residence is nearing completion on property abutting the east side of the proposed development.
2. The suitability of the subject property for the uses to which it has been restricted: The "RR" Rural Residential zoning district restricts uses permitted by right on the subject property to residential, agricultural, and related uses, and the subject property could continue to be used for agriculture or developed for residential use. The proposed development of the private Airport/Airstrip on the subject property may be permitted by a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Two single-family residences have been built since 2001 and another single-family residence is nearing completion. These appear to be the most recent developments that either are adjacent to or abut the proposed development/airstrip. The two single-family residences built since 2001 are located approximately 670-feet directly south of the site and at least one of them plus another older single-family residence appears to be located directly under the flight path of the airstrip. The effect of the of the proposed development/airstrip on these houses (as well as the remaining undeveloped lot in the Heimerman Meadows Addition) would include

increased noise from aircraft approaching or taking off from the airstrip, a loss of privacy due to the low altitude aircraft would be flying at when approaching or taking off from the airstrip and public safety concerns due to approaching or departing aircraft flying over the houses from the strip. According to the FAA and the KDOT Division of Aviation most aircraft accidents occur during takeoff or landing. It is doubtful that when these property owners built in 2001, they anticipated being in close proximity to an airstrip or being under the flight path of approaching or departing aircraft from the airstrip. Houses on the northwest side of the site would experience similar effects although not as pronounced, because they are not directly under approaching and departing aircraft's flight path to the airstrip.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. Private airstrips are located throughout the Sedgwick County either as legal non-conforming uses established prior to the 1996 adoption of the UZC or as Conditional Uses. Locational considerations for an airstrip include keeping them away from large bodies of water and concentrations of population. There are no large bodies of water in the immediate area and the rural setting of the proposed airstrip has removed it from concentrations of population. The issue with this proposed site is the recently constructed houses and an older house being located approximately 670-feet directly south of the site, with two of the houses appearing to be under the flight approach to and from the airstrip. The intrusion of air traffic over these houses and the noise, lack of privacy and possible public safety issues generated by the aircraft make the proposed airstrip site unsuitable and incompatible with the existing uses of the area.
5. Impact of the proposed development on community facilities: No negative impacts on community facilities are anticipated.

If, however the Planning Commission finds this Conditional Use appropriate, Staff recommends that it be subject to platting within a year and the following conditions:

1. A maximum of one aircraft hanger shall be permitted on each single-family residential lot, with each site being a minimum of 5-6 acres in size. No hangars only lots. No more than a total of 15 hangars allowed for the entire site. The square footage of each aircraft hanger shall not exceed 3,000 square feet of floor area. Aircraft hangars shall not exceed 35 feet in height. The exterior of the aircraft hangars shall be muted in color. Except for uses permitted by right in the "RR" Rural Residential zoning district, use of the aircraft hangars shall be restricted to the storage, servicing, and maintenance of non-commercial aircraft, and shall be restricted to use by homeowners. No business activities, including an aircraft repair business, shall be permitted in the aircraft hangars.
2. Prior to the issuance of a building permit for aircraft hangars, written documentation in a form satisfactory to the Zoning Administrator of Sedgwick County shall be submitted documenting that the owner of the proposed Airstrip has granted permission for airplanes stored in the hangars on the subject property to use the airstrip. The written document shall be recorded with the Register of Deeds for the subject property.
3. No outside storage of aircraft shall be permitted.
4. On-site storage or dispensing of aircraft fuel shall not be permitted.
5. The airstrip shall be utilized by non-commercial aircraft only. Uses permitted shall only be those associated with the normal operation of a private airport and this shall include the sales of products or services.
6. The site shall be developed in general conformance with the approved site plan.
7. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
8. Any violation of the conditions of approval shall render the Conditional Use null and void.

MCKAY The landing strip is going to go on the west edge of that red line correct?

LONGNECKER Correct.

MCKAY Where are the houses that have been developed?

LONGNECKER There is an existing home here that was built in 1973, another house here built in 2001 and then the other house was built in 2001 right here. This is platted as the Heimerman Meadows Addition. (Shows on map)

JOHNSON There are five private landing strip developments like this? How many do you know of?

LONGNECKER I am not sure how many private airstrips we have in Sedgwick County. We have 2 or 3 near Valley Center, 3 around Derby and the one at Lake Waltana, plus another across the road from it. But, again I could not find a record of the number of private airstrips in the county.

MCKAY There are four around this vicinity now.

JOHNSON I know there is a number of them. Did you do any checking on how many times there has been a crash on take-off or landing?

LONGNECKER The County had no record of recent accidents.

GAROFALO There are several homes on the west side?

LONGNECKER Right. (Shows on map)

GAROFALO It looks like the airstrip would be very close the house to the north.

LONGNECKER Yes, it is abutting it.

MITCHELL The gap shown on the map, is that drainage?

LONGNECKER The drainage runs along the east side of the development, running north to south, and it continues south to the road and where it goes beyond the road I am not sure. The land on the south side of the road, south of the residential, is undeveloped agriculture land.

MITCHELL So north of Central there is a gap there, and has it been built as a drainage reserve?

LONGNECKER No, this is unplatted property.

DUNLAP With regard to your take off and landing statistics, the odds of a take off and landing accident off the end of any runway aren't much greater than when they are in the air. The AOPA Safety Foundation says there where 600,000 pilots that flew 68 million flights last year, and the take off and landing accidents are a pretty small percentage. This development is different than some of the other private airstrips in its possible number of planes. Some of these private airstrips you don't see because you don't know they are there because they are only used by one person or one farmer. There are a lot of them around. My personal estimate is that there are probably 200-250 private airstrips in Sedgwick County. They are private airstrips that restrict what you can do on that airport.

MARNELL The houses on the west, where do they have access to public streets?

LONGNECKER The applicant is proposing to put in a road.

MARNELL Bill, I mean the existing houses west of the airstrip, where do they have access to a public road?

LONGNECKER They have access to 359th Street West or 13th Street North.

MARNELL How can they have access to 359th Street? If they are west of this airstrip, are they actually on 13th Street north?

LONGNECKER Some of them are on 13th Street North, and some of them are abutting 359th Street West.

MARNELL What I am trying to get to is what is on the west side of this runway? Because you showed those houses, and described them as being on the west, so where are they?

LONGNECKER (Shows on aerial where the houses are located along 359th Street West and 13th Street North, all of these houses being west of the airstrip)

MARNELL The staff comments on number two under suitability, it appears to me that the objection is the rural location. Where would you put one of these if it weren't rural residential? You couldn't put it in urban residential. By the very nature of it, it has to go in a rural area like this.

LONGNECKER Staff's issue, as stated in the report, is the location of the houses that are immediately under the airstrip. As noted in the Staff report, it is doubtful they anticipated being located under an airstrip when they were built. The fact is, that if there is an accident, it is more likely to occur on take off and approach.

DUNLAP It is real hard to hit something up in the air.

MARNELL In Condition #4 how could you ever have an airstrip in a rural area that would comply with the Comprehensive Plan.

LONGNECKER Applying the FAA criteria for separation between public airstrips and any kind of structures underneath them, you have 200 feet from the end of the runway, and then another 1,000 feet where they do not allow any kind of structures underneath airstrip. You could have an airstrip as long as any houses are located 1,200-feet beyond the end of the airstrip.

MARNELL This is a private airstrip.

LONGNECKER It is a private airstrip, and the FAA and the Kansas Department of Transportation, Division of Aviation have no jurisdiction over them. They are regulated by local government, but in looking for criteria in regards to where to allow a structure in relation to the airstrip, I don't see where else I could have turned.

DUNLAP I think you would find that restriction includes the further out you get the higher the construction can be.

LONGNECKER I think it is a 1-20 pitch

DUNLAP Three percent, normally.

MICHELE WEBSTER, TERRA TECH LAND SURVEYING When we started this project back in August I told the applicant that they needed to get staff approval before we proceeded with an application. Because to override a denial from the staff, and neighborhood opposition is darn near impossible. I spoke with Mr. Longnecker, and I got assurances from him that there was no problem with this application. The major factor is the neighborhood opposition.

It is a site that lends itself well to a rural airstrip. It is three-quarters of a mile long. The private airstrips that I am aware of are Lake Waltana, Ninnescah Valley View Estates, which is just south of Waltana, Highpoint and one called the Yoder Airport Addition, 3 miles west of Goddard, just south of 54. It was approved in 1992. The length of the runway typically for those 4 subdivisions is about 1/2 mile. So when the applicant were looking for their property they wanted at least 3,000 feet of runway so they thought this property was ideal. They wanted to put the runway the full length of the property to insure even more adequate protection from runway accidents where you could ditch the take off if you needed to, and have lots of room to get over any houses.

The applicant tells me that the plane starts leaving the ground at about 1200-1500 feet is when you get actual lift off. So we are looking at almost another 1/2 mile to get up to a minimum elevation of 500 feet, and that is really not a problem. If you can do it in a 1/2 mile, I think you ought to be able to do it in 3/4 of a mile.

Mr. Longnecker keeps saying that it is only 670 feet to the next adjoining property to the south. That is the true property line to property line, but if you go from the end of the runway to the actual house, there is probably more than a 1,000 feet of separation so we have a lot of distance that these small aircraft can utilize to get airborne and to reach that 500-foot cursing altitude.

The three points that staff denied recommendation of approval on were basically safety, noise, and lack of privacy. I don't believe it is going to increase the noise level because this is already in the flight path of the Cheney Training School, and during the summer the surrounding residences tell me that there is quite a few airplanes up in the air already. Before we submitted this I wanted to make sure that a plat would work given the extra long length of the road and safety issues as far as emergency services getting down to those houses built on the south end and did the Fire Department have any problem with that. I discussed it at length with Kevin Holiman, the Sedgwick County Fire Department, and we worked out some agreements that if we were allowed to do these 17 lots that theses lots would not be further divided until another point of access to a section line road was obtained either to 343rd Street West, and across property adjoining to the east of South 4th Street through property that way. We have allowed stubs going to the west, south, and to the east on the proposed plat so that anybody developing around us could extend this and it could be a through road. Mr. Holiman did not have any safety concerns over on-site fuel storage at all. We discussed it, and he said that there were regulations governing that, and that was not an issue with him. So I do not believe that should be a requirement of the Conditional Use.

If this is approved, the staff wants to limit the number of hangers to 15 for the 17 lots. I would not support that recommendation since there are 17 lots, and this is a pretty big infrastructure that we have to pay for when we put in that much road, and that much runway. They want to limit the sale of lots to people that actually have an aircraft and that can utilize it. I spoke to County Code Enforcement, and there is no limit on the number of buildings or the size of buildings in "RR" zoning, so even with a Conditional Use if you restrict it to a hangar of no more than 3,000 square feet, you are not limiting the fact that the same owner could put up another building that is larger. You are just saying that he can't park his airplane in that building.

The condition of the muted color of the buildings, I don't think the Planning Department ought to go out in the County and tell farmers that they can't paint their barns red.

The Condition #4, that the rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses. In the general provision of the Zoning Code, under the agricultural exemption when this was adopted in 1996, the general public was put on notice that if you move out in the County you have to be aware that farming operations are noisy, and they have smells. It actually says, "Owners, residences and other users of this property or neighboring properties may be subjected to inconvenience and discomfort arising from normal and accepted agriculture practices and operations including but not limited to noises, odors, dust, the operation of machinery

of any kind, including aircraft and the storage and disposal of manure, the application of fertilizer, soil amendments, herbicides, and pesticides". I don't think they were specifically saying agriculture uses aircraft. What they are saying is that you are going to be more aware of them because they are flying lower in the rural part than they are in the urban parts.

This is so far removed from the urban areas. We are two miles south of the Reno County line, and we are 3 1/2 miles east of the Kingman County line. We are way out in the middle of nowhere. There aren't very many of these housing opportunities where you can own you plane, and live with it on your property.

MCKAY Why did you locate the runway on the extreme west edge of the property?

WEBSTER Because we want to go the full length, and if you look at the east side of the property that is all Flood Zone A, it is fairly low and boggy, and we don't want to rip out any trees. We want to preserve that part of the habitat.

MCKAY You are dedicating 70 feet for a right-of-way. So five years from now the land to the west develops that means you have to go across a public street at that point and time to get to your runway?

WEBSTER No, the street is on the east side of the runway, and the people that develop to the west don't have access to this public road.

MCKAY I am saying if that becomes a public road, because you are dedicating it as a public road, that means the people that live in your subdivision have to go across a public road to get to their landing strip?

WEBSTER Yes.

MCKAY The second thing you said, the reason you didn't put it on the east side or more in the middle was because of the terrain?

WEBSTER It is not heavily wooded on the northern portion. This is the layout that my client wanted.

MCKAY Well, 3/4 of a mile there is only 15-foot drop from the north to the south if you run it down the middle or angle it or put it on the east side of the property 20-feet at the most. I have a problem with a landing strip next to private property, regardless of whether it is farmland or whatever it might be. I also have a problem that you are dedicating 70 feet, and saying okay we recognize that someday that might be a street.

WEBSTER On the south you say?

MCKAY On the west, you have a 70-foot dedication.

WEBSTER We have a 70-foot dedication on the east side of the runway.

MCKAY Isn't that for a street?

WEBSTER Yes.

MCKAY Again, in regards to the proposed 70-foot road dedication, if that street ever goes in the people in your subdivision would have to cross that public right-of-way to get to the landing strip, correct?

WEBSTER That is true. There are other situations. The Ninnescah Valley View Estates is up against property on the east side of that subdivision. The Lake Waltana airstrip is on the west side of that development, but I think only the people that are adjoining on the runway actually have hangers that back up to the runway. At North Point all of the houses are east of the runway. I don't anticipate this being a major thoroughfare since it is not on a half-mile line, and it is so far out there it will be along time from today.

HENTZEN Is this going to be a grass strip?

WEBSTER Yes it is.

MITCHELL You would be eventually developing a subdivision plat?

WEBSTER Yes, we have to plat within one year of approval.

MITCHELL The tracts that are east of the dividing line between the small blocks and the large ones, would they be part of the plat?

WEBSTER No, they are not they are tracted out, and it appears that about 1/2 of them have been sold. On Tract 2 there is an eagle sanctuary going in on it, and there is a new house is under construction on that site. That is one of the neighbors protesting this development. I believe the north two lots are owned in common, and are protesting.

MITCHELL Was a flood study done for those tracts?

WEBSTER No, we will probably have to do a flood study even though we are really not impacted much. This was one of the reasons I think that the Classens, who are the applicants for the zone change because they own this entire pieces, have tracted out what they could with 20-acre exemptions. By tracting it out they wouldn't have to pay for the drainage study or build any interior roads or pay for the platting cost. So what they've got left over is this 118 acres that is really not good for much of anything except for farming under one ownership or if somebody wants to sink a lot of money into infrastructure to develop it the way that we are proposing.

MITCHELL If the flood study demonstrated that the flood line that you had estimated on the east encroaches into these parcels or lots considerably, what would that do to your economics?

WEBSTER We can still combine lots. We'd lose several lots, but the project would still be viable. The four lots on the south are 25-acres, and they already have a person interested in buying them. The next four lots, 10, 11, 12, & 13 are going to be owned, I believe, by the Athas', and those are also 25-acres in size. We didn't think that we could cluster five lots together on this next cluster, 5-9, but there wasn't any nice way to split it, and the Fire Department said they would approve that even with a private driveway. The way that the Fire Department approved it was that any lot that had access to a section line road or this 70 foot road dedication, if they fronted on that, this is where they had to have their main access, and the other lots could front on the taxi-way private drives.

MITCHELL If you lost part of lots 6, 7, 11, 12, 15, & 16, it would not upset you economics?

WEBSTER It is still doable. We can make those 6-acre lots or 5-acre lots and we can drop a lot.

BISHOP The plan is to have the hangars on the east side of the 70- foot road dedication?

WEBSTER Yes, and you probably wouldn't even notice that they are hangars. Everybody is doing prefab metal buildings, which you see all over the county. The only difference would be the wider doors. They could also incorporate the hangar into the home if they want to. In this case, if you are driving in front of those houses that front on the runway you couldn't tell that they had a hangar until you look in the garage windows and see an airplane in their garage.

BISHOP Then the idea is Lots 1, 4, 5, 9 and so forth would front onto the 70-foot road dedication?

WEBSTER Their garage, their main point of access for the home has to be on the dedicated road, but the hangar access is the taxiway.

BISHOP The taxiway is what?

WEBSTER These dash lines with the circle around them. Those are private drive agreements between the lots.

GAROFALO Are we just being asked to approve a Conditional Use permit for a private airstrip or the entire layout?

WEBSTER In Item 6, on page 5, the Conditional Use list of things that they want us to conform to says that the site shall be developed in general conformance with the approved site plan, so this is the site plan that we do want to go with.

BISHOP If it weren't for the application for the airstrip, it could be developed like it is without coming before us.

WEBSTER It could be developed to a higher density. It could be 2-acre lots.

MILLER The Conditional Use application requires that the applicant submit a site plan, and part of the review of that Conditional Use is that if you decide to approve the Conditional Use request for the use itself, you are also approving whatever conditions you think are reasonable to apply to that use, and you are also approving the site plan that accompanies that Conditional Use application.

MARNELL This is going to be a dedicated road since it is going to have aircraft crossing it. I have been on both sides of that issue. Since I drive a car I normally wouldn't expect aircraft to come across a public road when I am driving, and when I flew planes I expected those to be on runways or taxiways, and not out on public roads. If you dedicate this it becomes a public road.

WEBSTER That is true. We ran that by Jim Weber at the Public Works Department and also the Fire Department, and they were of the opinion that they wanted an outright dedication because it would have scheduled maintenance, and it would ensure that the people that lived at the very south of this development, since it is so far from the section line road, had adequate protection.

MARNELL I don't know if aircraft are allowed on public roads.

WEBSTER We are not taxing down the road. We are just crossing it.

MARNELL You are crossing it in four places.

DUNLAP There are a couple that I know of, one on south Oliver and one is on north Webb Road, and they are not there today, but for a number of years we crossed those roads with aircraft.

MARNELL Do those require some kind of a permit to move an aircraft across a public roadway?

WEBSTER We could make it a private road with a contingent dedication.

MARNELL If it truly is a public road, I would say the general public does not expect to encounter an airplane when they drive down a public road.

ROBERT ROBBEN, 4402 S. 151st W., Wichita, KS 67227 We own the property directly west of the proposed site, this 80 acres right here. This is a cattle-feeding operation. We maintain livestock and aircraft do upset cattle. I object to this development, and to the Commissioner implying that the probability of a crash happening is so small that it is not a concern. Crashes do happen, and the safety is a problem to a person who has to live in a house and have that fear or thought every time that a plane goes over and worry about a crash. I wonder if the small probability of a crash matters to the couple killed in Greenwood? This development means there will be more aircraft out here, and crashes will probably happen. The noise is a problem. On the road issues, I think the owners have a different idea on the need for the dedication because it is going to cost a lot of money for someone to privately to put a road in.

JOE COOPER, 35302 W. 4th, Cheney, KS 67025 We own this 40 acre tract right here. We have lived here since 1991. This area of the County is one of the most beautiful. The way of life, as we know it will change drastically if we get this subdivision with a private airstrip. Several of us property owners got together and discussed this development. Fire is a concern. In the event of an accident midway down the airstrip, it is possible that the fire department vehicles could be prevented from reaching the areas to the south, where I live. In the case of a fire and with the right wind conditions there is a large wooded area with access to these lots. Captain Rooney doesn't want those fire engines off the road at anytime because they get stuck in a field. The area has abundant wildlife, including deer, which could get on the airstrip. There are horses in the area, as well, which could get on the airstrip. Property owners live at both ends of that runway. There would be an adjustment in the insurance premiums and loss of property values. We are not close to water in case of fire.

KEN LOCKWOOD, 927 N. 343rd West, Cheney, KS 67025 In the summer of 2002 we started looking for land and we have been rehabbing birds of prey, including eagles. When we brought this property we were told by the Clasens' and the Jeff Lange Real Estate Company, that this would stay farmland. This rural location was important for our rehabilitation service because of its remoteness lending itself to a less stressful environment for the birds. Bald Eagles in particular need the room that this area offered. We get them if they are injured, such as being kicked out of a nest or having fallen out of a nest. When injured and in a captive situation they are an extremely stressed birds. I am in the process of building a 100-foot flight pen. We were going to do a netted pen, but because this development might happen we have spent \$6,000 in wood to make a wood pen to protect the birds from this development. I have brought a video for you to view. This was filmed for a Larry Hatteburg feature. I am worried about the airstrip and 17 airplanes, and what would happen with the birds.

DAVID FOLTZ, 35100 W. 4th St. N., Cheney, KS 67025 I am right under the landing strip. I am worried about my safety with my house being right underneath the airstrip. This is not good. There also will be noise. The value of our house will go down because most people will not want to live underneath a landing strip.

DOYLE A. HEIMERMAN, 711 N. 343RD ST. WEST, CHENEY KS 67025 I have safety concerns in regards to cattle or deer getting in the runway. When you drive down the road and deer or cattle come out in front of you, you can stomp on the brakes and stop or swerve your vehicle, but when you are in a plane you will not be able to stop a plane soon enough. Cattle do get out of fenced areas.

GAROFALO Where do you live?

HEIMERMAN I live approximately here.

RAYMOND DOLL, 1313 N. 343RD W., CHENEY KS 67025 I wouldn't have bought my property out there if I knew there would be an airstrip out there. I don't want to be living next to the airstrip. If a fire truck went off the road because of responding to a fire, they would get stuck. Even tractors get stuck out here now.

TOM RAUSH, 6760 S. 263RD W., VIOLA KS 67149 We own the pasture right next to the runway. There are some drainage problems, and if they level their ground, how will it affect us and keep us from being washed away?

WEBSTER I don't have a lot of rebuttal. In regards to the safety issues about the cattle getting out, it is the property owner's responsibility and there are fence laws out in the County. As far as wildlife, deer get hit by automobiles a lot more than they get hit by airplanes. When new development goes in the wildlife changes and they adapt or they go somewhere else. I don't see this development as an obtrusive use out in this out of the way area.

MOTION: To deny the application.

GAROFALO moved, **BISHOP** seconded the motion.

MOTION: Fails 5-5. **JOHNSON, MARNELL, MITCHELL, DUNLAP, HENTZEN** opposed.

MOTION: To approve the application.

MARNELL moved **MITCHELL** seconded the motion.

MOTION: Fails **5-5. WELLS, GAROFALO, COULTER, BISHOP, MCKAY**, opposed

MILLER Mr. Parnacott has confirmed that it is a recommendation for a denial so for it to move on the applicant would need to determine whether they want to appeal the MAPC recommendation for denial to the County Commission.

MARNELL So they would be appealing the decision of the Planning Commission?

MILLER Correct.

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15. **Case No.: ZON2003-63** - INK Enterprises, Inc. (Willis E. Hartman II); MKEC Engineering Consultants, Inc. (Jeff Cartwright) Request Sedgwick County Zone change from "SF-20" Single-family Residential to "SF-5" Single-family Residential on property described as;

A tract of land located in the Northwest Quarter of Section 13, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, described as follows:

BEGINNING at the Northeast corner of Lot 6, Block 4, Crestview Country Club Estates, Overbrook Second Addition, an addition to Sedgwick County, Kansas; thence S 89 degrees 05'59" W, 320.00 feet to the Northwest corner of Lot 5, said Block 4; thence N 60 degrees 00'00" W, 39.85 feet; thence N 00 degrees 55'01" W, 279.54 feet; thence N 89 degrees 05'59" E, 304.27 feet; thence S 21 degrees 11'25" E, 120.67 feet; thence S 03 degrees 24'01" E, 187.0 feet to the POINT OF BEGINNING. Generally located North of 9th Street approximately 1/4 mile east of 143rd Street East and north of Stagecoach Street.

BACKGROUND: The application area is located 220 feet north of east 9th Street, ¼ mile east of 143rd Street East, and is undeveloped. The 2.3-acre tract is part of the proposed Crestview Country Club Estates, Overbrook Fifth Addition. The plat containing the area covered by the rezoning application depicts four residential lots in the 15,000 square foot range served by a cul-de-sac running northward from 9th Street.

Property to the west is developed as large lot residential use with horse facilities. The property to the north and east is mostly undeveloped except for a large barn and three smaller barns. These properties to the north, east and west are zoned "SF-20" Single-family Residential. Property further to the east is zoned "SF-5" and developed with single-family uses. Property immediately to the south is zoned "SF-5" Single-family Residential, and is part of the proposed plat containing the application area. Property further south, across 9th Street is platted and developed with single-family residential uses.

CASE HISTORY: The MAPC Subdivision Committee approved a "one-step plat" for Crestview Country Club Estates, Overbrook Fifth Addition on November 13, 2003.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-20" Single-family Residential; barns
SOUTH: "SF-5" Single-family Residential; vacant and single-family homes
EAST: "SF-20" Single-family Residential; barn
WEST: "SF-20" Single-family Residential; single-family residential

PUBLIC SERVICES: Public services are available for extension, and the plat will require guarantees to insure that improvements will be constructed. Ninth Street is paved part of the way east of 143.

CONFORMANCE TO PLANS/POLICIES: The Wichita Land Use Guide Map depicts this site as appropriate for low-density residential uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to completing the plat within 1-year.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property to the immediate west, north and east is undeveloped and zoned "SF-20". Property further to the east is zoned "SF-5". Property immediately to the south is vacant, zoned "SF-5" Single-family Residential and is part of the proposed Overbrook Fifth Addition. Property further south, across 9th Street is platted and developed with single-family residential uses. This area is slowly developing with single-family residential uses.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed as currently zoned, however the rezoning makes more efficient use of the land and of municipal services. There are many "SF-5" single-family residential lots located to the south, and approval of the request would be consistent with the zoning pattern that is developing in the larger area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: With a greater number of lot, traffic volumes will increase, but not beyond the ability or capacity of existing or planned improvements.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The request is consistent with adopted plans.
5. Impact of the proposed development on community facilities: Required facilities are in place or planned to address the expected increase in traffic volumes and sewer and water services.

MOTION: To approve, subject to staff comments and citing the findings in their report.

MCKAY moved, **WELLS** seconded the motion, and it carried (10-0).

16. **Case No.: CON2003-45** - Donald W. & Kathlyn C. (Bradley) Salvage Request Sedgwick County Conditional Use for a home occupation for parking/storing of commercial vehicle on property zoned "RR" Rural Residential on property described as;

Township 25 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, except the South 50 feet thereof for road. Generally located On the north side of 93rd Street North approximately 1/6 mile west of Hydraulic (1320 E. 93rd Street North).

BACKGROUND: The applicants are requesting a Conditional Use to permit a rural home occupation to park a semi-truck and trailer, which exceeds 26,000 pounds gross vehicle weight on an approximately 10.00-acre tract of land. This property is zoned "RR" Rural Residential and is located on the north side of 93rd Street North, between Hydraulic and IH-135.

The rural home occupation guidelines of the Unified Zoning Code (UZC) permit the parking of one commercial vehicle owned by the occupant that exceeds 26,000 pounds gross vehicle weight rating. This rural home occupation becomes a Conditional Use when it fails to meet any of the qualifying conditions as listed in Art IV, Sec IV -E, a-g of the UZC. The applicants do not meet the following conditions of Art IV, Sec IV -E, a-g of the UZC for rural home occupations:

- (a) Rural home occupations must be located on a minimum of 20-acres; the applicants have 10-acres of land.
- (b) The rural home occupation may not be conducted within 600-feet of a dwelling wherein no rural home occupation is conducted; the truck would be located closer than 600 feet from a neighboring dwelling unit that is not conducting a home occupation.
- (c) Outdoor storage is permitted provided the size of the storage area does not exceed 10,000 square feet, is located behind the principal structure and 200 feet from all property lines, screening of the storage area by structures, solid or semi-solid fencing and/or landscaping materials from adjacent roads and properties is required within 600 feet of a property line or public right-of-way; the truck will be located closer than 200-feet from the property lines and the current condition of the site does not provide the required screening.

The applicant has submitted a site plan, which shows a gravel drive where the tractor-trailer will be parked. The site plan also shows existing buildings and trees on the site. The character of the surrounding area is rural. All properties surrounding the subject property are zoned "RR" Rural Residential, are used for agriculture or are developed with large-lot rural home sites.

CASE HISTORY : None.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	vacant, large tract single-family residences
EAST:	"RR" Rural Residential	vacant, large tract single-family residences
SOUTH:	"RR" Rural Residential	large tract single-family residences
WEST:	"RR" Rural Residential	large lot & large tract single-family residences

PUBLIC SERVICES: Access to the subject property is from 93rd Street North, an unimproved township road. The subject property is located within a rural water district service area. Public sewer service is not currently available to serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Sedgwick County Development Guide of the Comprehensive Plan designates this area as a Small City Growth Area; however, the subject property is located outside the Zoning Area of Influence of any city. The Land Use Guide of the 1999 Update to the Comprehensive Plan identifies this area as appropriate for "Rural" development. The Rural category is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and large lot residential subdivisions with provisions for future water and sewer services. The Wichita-Sedgwick County Unified Zoning Code (UZC) lists the parking of one commercial vehicle owned by the occupant that exceeds 26,000 pounds gross vehicle weight rating as a rural home occupation Conditional Use in the "RR" district, when it fails to meet any of the qualifying conditions as listed in Art IV, Sec IV -E, a-g of the UZC.

RECOMMENDATION: The property will be developed in general conformance with the site plan approved by the MAPC or County Commission. Based on the information available prior to the public hearing, and a site plan showing the location of the parked tractor-trailer truck, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. One commercial vehicle exceeding 26,000 pounds owned by the applicant of this site shall be permitted. There will no additional employees, no parking of additional commercial vehicles, no outside storage of materials or equipment, no signage, no vehicle repair of other vehicles other than the one tractor-trailer or any other business activity except that which is permitted by the UZC for the "RR" zoning district or this Conditional Use.
2. The applicant shall submit a revised site plan showing the area where the tractor-trailer will be parked within 60 days of approval of the Conditional Use. The area will be behind the house located on the site and in the general area where the existing gravel drive and shop building is located. The applicant shall plant and maintain a solid row of evergreen trees, a minimum of 5-feet in height around the parking area, which will include the existing shop building. A break in the solid row of evergreens will be allowed along the street frontage for access into the parking area. Planting of the evergreens will be completed within 120 days of the approval of the Conditional Use. If needed additional gravel will be laid on the parking area to ensure that the one allowed tractor-trailer would always be on a gravel-parking surface.
3. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural. All properties surrounding the subject property are zoned "RR" Rural Residential are used for agriculture or are developed with large tract/lot single-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The subject property is zoned "RR" Rural Residential and is presently used for a single-family residence and could continue to be used in conformance with its present zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The conditions of the Conditional Use should minimize the detrimental affect on the adjacent properties. In rural areas it is not unusual for larger agricultural related machinery to be stored at farmsteads. The presence of one semi-tractor trailer should not be any more detrimental than farm equipment.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The UZC contains specific policies pertaining to the parking of a commercial vehicle weighing in excess of 26,000 pounds in the "RR" Rural Residential zoning district. Consideration of the request as a rural home occupation conditional use. Although the applicant does not meet all the conditions required by the code, the location of the parking area and the planting of screening material help the request to generally conform with the adopted plans and policies.
5. Impact of the proposed development on community facilities: A detrimental impact on the maintenance of the unimproved township road fronting the subject property can be anticipated in regards to the tractor-trailer using the road. Minimum impacts on other community facilities are anticipated.

BILL LONGNECKER Planning staff. Since the time when the staff report has been written we have talked to the applicant and they have asked that Condition #2 be revised. The applicant has asked that because of the time of the year that the 120 days allowed for the planting of the evergreens be extended to 180 days to allow for the successful planting of the evergreens. The have also asked for the screening around where the truck will be parked be only around the parking area and not include the existing shop building which is shown on the exhibit you have with the Staff report. Staff is in agreement with this request.

BOB KAPLAN We concur.

MOTION: To approve subject to changing condition #2 as stated by the staff.

HENTZEN moved, **DUNLAP** seconded the motion, and it carried (9-0).

- 17. Case No.: DR2003-31** - The City of Park City seeks annexation of properties located adjacent to The City of Park City, south of 93rd Street North and west of Hydraulic Avenue

The proposed annexation properties are located within the Small City Growth Area as established in the Wichita-Sedgwick County Comprehensive Plan, adopted and updated in 2002. The 2002-2012 Comprehensive Development Plan for Park City shows the proposed annexation area falling within the future residential expansion area for the City of Park City. The proposed annexation area is also located within the zoning area of influence for Park City. Staff recommends that the Metropolitan Area Planning Commission find the unilateral annexation proposed by Resolution No. 534-2003 of the City of Park City to be compatible with the adopted Wichita-Sedgwick County Comprehensive Plan.

MCKAY Is this in their growth area?

BARBER Yes, this is in the growth area of Park City and it is also in the growth area of Valley Center.

DUNLAP This application is something that has caused a whole lot of concern in the area where I live. This morning someone called the County Commissioner Dave Unruh and suggested, even demanded, that I not vote on this issue because I have been heavily lobbying against the annexation. So I will not vote on this issue and I will abstain. There is a court case that is pending. This does comply with the Comprehensive Plan.

MOTION: To approve the unilateral annexation because it is compatible with the adopted Wichita-Sedgwick County Comprehensive Plan.

GAROFALO moved, **BISHOP** seconded the motion, and it carried (9-0-1) **DUNLAP** abstains.

- 18. Review the draft Agenda for MAPC Workshop 12-19-03.**

JOHN SCHLEGEL Planning Director As a reminder to you, the Planning Commission workshop will be a week from tomorrow on December 19th. it will be at Ray Warren's place. Your Chairman and I have been discussing what Items to have on the agenda, and before you today are the Items we have come up with.

MITCHELL I think you are ambitious in your 1 1/2 hours on your Item #1.

SCHLEGEL What we were trying to do in showing the hours here is simply to have a time budget so that we make productive use of our day. If you think we need more time for some of these items, and less to others, let us know.

MITCHELL I think it will take twice that time for Item #1.

HENTZEN Who is going to Chair this workshop?

SCHLEGEL The Chairman has volunteered to monitor the activities and the Agenda.

BISHOP Under Item #4, it mentions C.U.P.'s and P.O.'s, are there other zoning ordinance matters; like if we have some favorite proposed changes we would like to suggest, is that the point at which to do it?

SCHLEGEL I only added the C.U.P.s and P.O.'s to the more general category because I had specific request to talk about that. Yes, that would be the time to bring them up.

JOHNSON I'd like to add something to that. I feel a little time should be spent on the way we conduct ourselves at these meetings. For one, raising your hand and getting recognized by the Chair. I think looks a lot more professional then somebody just blurting out a question of an applicant. Secondly, this debating back and forth if I don't agree with somebody. I think we need to take a hard look at that because that is not really what we are here for. We are not a court case where everybody is entitled to their opinion, and I would like to be respected and I should respect somebody else's opinion when I don't agree with it. Lastly, when the Chair asks if there are any questions of the speaker, I think it needs to be kept to a question rather than a counseling session from one of the members of this Commission to somebody in the audience or someone at the podium. I think legally we ought to be looking at that because I don't think we look professional in what we are doing.

MARNELL I would concur with that, and we should make time for that Item.

SCHLEGEL Going back to Mr. Mitchell's comment, do we want to change the time budget here?

MARNELL This won't be the one and only last meeting that we will have. Every time we get into the Comprehensive Plan it is kind of the never-ending task, and it always will be.

JOHNSON Could we start at 9 a.m. instead of 10 a.m.?

MARNELL It is not a problem for me.

WELLS I would like to keep it at 10 a.m.

BISHOP I would think it would take longer for the Comprehensive Plan, and not an hour and one-half for MAPC priorities.

MARNELL My opinion is that Item #3 might be a time that will be difficult to deal with because those first two might mesh together, but Item 3a in particular could eat up some time.

MCKAY Are we trying to cover too many things? I am not going to be able to be there so I want to know what the penalty is going to be?

MARNELL How long will it take us to go over the Subdivision Policy?

SCHLEGEL I will be brief. It is up to how much comment you will have.

MARNELL Let's leave the agenda the way that it is now.

19. Planning Summit, presented by John Schlegel.

JOHN SCHLEGEL Planning Director. Report on the Sedgwick County Inter-Municipal Planning Summit. Total attendance was 64 people and there were 18 out of the 20 cities in Sedgwick County represented at the Planning Summit. The County hired a facilitator for the meeting who took the participants through the agenda. The next steps that are occurring now, the participants signed up to work together in three separate task forces and follow -up committees, and on January 17th there will be a second Planning Summit.

The Metropolitan Area Planning Department informally adjourned at 4:48 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2003.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)